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99TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPT. 99-253
Part 2

137 p.

SUPERFUND AMENDMENTS OF 1985

OCTOBER 28, 1985.—Ordered to be printed

Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

1008-C
1008-D.

REPORT

together with

H363-73
H. 12816
Y1.1/8. 99-253/pt.2.

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 2817 which on June 20, 1985, was divided and referred to the Committee on Energy and Commerce, the Committee on Public Works and Transportation, and the Committee on Ways and Means; which on August 1, 1985, was reported by the Committee on Energy and Commerce (H. Rep. 99-253, Part 1); and which on August 1, 1985, was also referred to the Committee on the Judiciary and the Committee on Merchant Marine and Fisheries] [1]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 2817) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes, having considered the same reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out title IV of the bill and insert in lieu thereof the following:

[1] The Committee on Merchant Marine and Fisheries approved the bill with amendments on October 1, 1985; the Committee on the Judiciary approved the bill with amendments on October 8, 1985; and the Committee on Public Works and Transportation approved the bill with amendments on October 10, 1985.

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TITLE IV—AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1954

SEC. 401. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Superfund Revenue Act of 1985".

(b) TABLE OF CONTENTS.—

Sec. 401. Short title; table of contents.

PART I—SUPERFUND AND ITS REVENUE SOURCES

Sec. 411. Extension of environmental taxes.
Sec. 412. Increase in tax on petroleum.
Sec. 413. Increase in tax on certain chemicals.
Sec. 414. Repeal of post-closure tax and trust fund.
Sec. 415. Waste management tax.
Sec. 416. Tax on certain imported substances derived from taxable chemicals.
Sec. 417. Imposition of superfund excise tax.
Sec. 418. Hazardous Substance Superfund.

PART II—LEAKING UNDERGROUND STORAGE TANK TRUST FUND AND ITS REVENUE SOURCES

Sec. 421. Additional tax on gasoline, diesel fuel, and special motor fuels.
Sec. 422. Leaking Underground Storage Tank Trust Fund.

PART III—OIL SPILL LIABILITY TRUST FUND AND ITS REVENUE SOURCES

Sec. 431. Increase in environmental tax on petroleum.
Sec. 432. Oil Spill Liability Trust Fund.

PART IV—STUDIES

Sec. 441. Study of impact of waste management tax on domestic manufacturers.
Sec. 442. Study of lead poisoning.

PART V—COORDINATION WITH OTHER PROVISIONS OF THIS ACT

Sec. 451. Coordination.

PART I—SUPERFUND AND ITS REVENUE SOURCES

SEC. 411. EXTENSION OF ENVIRONMENTAL TAXES.

(a) IN GENERAL.—Subsection (d) of section 4611 of the Internal Revenue Code of 1954 (relating to termination) is amended to read as follows:

"(d) APPLICATION OF TAXES.—The taxes imposed by this section shall apply after October 31, 1985, and before October 1, 1990."

(b) TECHNICAL AMENDMENT.—Section 303 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

SEC. 412. INCREASE IN TAX ON PETROLEUM.

(a) INCREASE IN TAX.—Subsections (a) and (b) of section 4611 of the Internal Revenue Code of 1954 (relating to environmental tax on petroleum) are each amended by striking out "0.79 cent" and inserting in lieu thereof "3.85 cents".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

SEC. 413. INCREASE IN TAX ON CERTAIN CHEMICALS.

(a) INCREASE IN RATE OF TAX; LEAD ADDED AS TAXABLE CHEMICAL.—Subsection (b) of section 4661 of the Internal Revenue Code of 1954 (relating to amount of tax imposed on certain chemicals) is amended by striking out the table contained in such subsection and inserting in lieu thereof the following:

"In the case of:	The tax (before any inflation adjustment) is the following amount per ton:
Organic substances	
Acetylene	$4.74
Benzene	4.74
Butadiene	4.74
Butane	4.74
Butylene	4.74
Ethylene	4.47
Methane	3.35
Napthalene	4.74
Propylene	4.74
Toluene	4.74
Xylene	9.68
Inorganic substances	
Ammonia	3.52
Antimony	4.33
Antimony trioxide	4.13
Arsenic	4.33
Arsenic trioxide	3.92
Barium sulfide	3.49
Bromine	4.33
Cadmium	4.33
Chlorine	3.40
Chromite	1.48
Chromium	4.33
Cobalt	4.33
Cupric oxide	4.00
Cupric sulfate	3.32
Cuprous oxide	4.15
Hydrochloric acid	0.83
Hydrogen fluoride	4.25
Lead	2.47
Lead Oxide	4.21
Mercury	4.33
Nickel	4.33
Nitric acid	2.36
Phosphorous	4.33
Potassium dichromate	3.25
Potassium hydroxide	2.67
Sodium dichromate	3.32
Sodium hydroxide	2.27
Stannic chloride	3.42
Stannous chloride	3.70
Sulfuric acid	0.70
Zinc chloride	3.46
Zinc sulfate	3.33."

(b) INFLATION ADJUSTMENTS IN AMOUNT OF TAX.—Section 4661 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) INFLATION ADJUSTMENTS IN AMOUNT OF TAX.—

"(1) IN GENERAL.—In the case of any taxable chemical sold in a calendar year after 1986, the amount of the tax imposed by subsection (a) shall be the amount determined under subsection (b) increased by the applicable inflation adjustment for such calendar year.

"(2) APPLICABLE INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of a taxable chemical, the applicable inflation adjustment for the calendar year is the percentage (if any) by which—

"(i) the applicable price index for the preceding calendar year, exceeds

"(ii) the applicable price index for 1985.

"(B) APPLICABLE PRICE INDEX.—For purposes of subparagraph (A), the applicable price index for any calendar year is the average for the months in the 12-month period ending on September 30 of such calendar year of—

"(i) in the case of organic substances, the producer price index for basic organic chemicals as published by the Secretary of Labor, or

"(ii) in the case of inorganic substances, the producer price index for basic inorganic chemicals as published by the Secretary of Labor.

"(3) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of 1 cent, such increase shall be rounded to the nearest multiple of 1 cent (or, if the increase determined under paragraph (1) is a multiple of ½ of 1 cent, such increase shall be increased to the next higher multiple of 1 cent)."

(c) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

(1) Section 4662 of such Code (relating to definitions and special rules) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

"(1) TAX-FREE SALES.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661 on the sale by the manufacturer or producer of any taxable chemical for export, or for resale by the purchaser to a second purchaser for export.

"(B) PROOF OF EXPORT REQUIRED.—Rules similar to the rules of section 4221(b) shall apply for purposes of subparagraph (A).

"(2) CREDIT OR REFUND WHERE TAX PAID.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if—

"(i) tax under section 4661 was paid with respect to any taxable chemical, and

"(ii) such chemical was exported by any person,

credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) CONDITION TO ALLOWANCE.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that he—

"(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable chemical, or

"(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(2) Paragraph (1) of section 4662(d) of such Code (relating to refund or credit for certain uses) is amended—

(A) by striking out "the sale of which by such person would be taxable under such section" and inserting in lieu thereof "which is a taxable chemical", and

(B) by striking out "imposed by such section on the other substance manufactured or produced" and inserting in lieu thereof "imposed by such section on the other substance manufactured or produced (or which would have been imposed by such section on such other substance but for subsection (b) or (e) of this section)".

(d) SPECIAL RULES FOR CERTAIN CHEMICALS.—

(1) REPEAL OF EXEMPTION FOR CHEMICALS DERIVED FROM COAL.—

(A) Section 4662(b) of such Code (relating to exemptions; other special rules) is amended by striking out paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(B) Paragraph (3) of section 4662(d) of such Code is amended by striking out "subsection (b)(5)" each place it appears and inserting in lieu thereof "subsection (b)(4)".

(2) EXEMPTION FOR LEAD HAVING TRANSITORY PRESENCE DURING EXTRACTING PROCESS.—Clause (i) of section 4662(b)(5)(B) of such Code (relating to substance having transitory presence during extracting process), as redesignated by paragraph (1), is amended by inserting "lead," before "lead oxide".

(3) SPECIAL RULE FOR XYLENE.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (5) the following new paragraph:

"(6) SPECIAL RULE FOR XYLENE.—Except in the case of any substance imported into the United States or exported from the United States, the term 'xylene' does not include any separated isomer of xylene."

(4) SPECIAL RULE FOR NITRIC ACID USED IN PRODUCTION OF NITROCELLULOSE.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (6) the following new paragraph:

"(7) SPECIAL RULE FOR NITRIC ACID USED IN PRODUCTION OF NITROCELLULOSE.—The tax imposed under section 4661 on nitric acid used by the producer of such acid in the production of nitrocellulose shall not exceed $0.24 per ton."

(e) EXEMPTION FOR CERTAIN RECYCLED CHEMICALS.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (7) the following new paragraph:

"(8) RECYCLED CHROMIUM, COBALT, NICKEL, AND LEAD.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any chromium, cobalt, nickel, or lead which is diverted or recovered in the United States from any solid waste as part of a recycling process (and not as part of the original manufacturing or production process).

"(B) EXEMPTION NOT TO APPLY WHILE CORRECTIVE ACTION UNCOMPLETED.—Subparagraph (A) shall not apply during any period that required corrective action by the taxpayer is uncompleted.

"(C) REQUIRED CORRECTIVE ACTION.—For purposes of subparagraph (B), required corrective action shall be treated as uncompleted during the period—

"(i) beginning on the date that the corrective action is required by the Administrator or an authorized State pursuant to—

"(I) a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, or

"(II) a final order under section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

"(ii) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

"(D) SOLID WASTE.—For purposes of this paragraph, the term 'solid waste' has the meaning given such term by section 1004 of the Solid Waste Disposal Act, except that such term shall not include any byproduct, coproduct, or other waste from any process of smelting, refining, or otherwise extracting any metal."

(f) EXEMPTION FOR ANIMAL FEED SUBSTANCES.—

(1) IN GENERAL.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (8) the following new paragraph:

"(9) SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—

"(A) IN GENERAL.—In the case of—

"(i) nitric acid,

"(ii) sulfuric acid,

"(iii) ammonia, or

"(iv) methane used to produce ammonia,

which is a qualified animal feed substance, no tax shall be imposed under section 4661(a).

"(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term 'qualified animal feed substance' means any substance—

"(i) used in a qualified animal feed use by the manufacturer, producer, or importer,

"(ii) sold for use by any purchaser in a qualified animal feed use, or

"(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.

"(C) QUALIFIED ANIMAL FEED USE.—The term 'qualified animal feed use' means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.

"(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical."

(2) REFUND OR CREDIT FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (d) of section 4662 of such Code (relating to refunds and credits with respect to the tax on certain chemicals) is amended by adding at the end thereof the following new paragraph:

"(4) USE IN THE PRODUCTION OF ANIMAL FEED.—Under regulations prescribed by the Secretary, if—

"(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(9), and

"(B) any person uses such substance as a qualified animal feed substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(9) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section."

(g) CERTAIN EXCHANGES BY TAXPAYERS NOT TREATED AS SALES.—Subsection (c) of section 4662 of such Code (relating to use by manufacturers) is amended to read as follows:

"(c) USE AND CERTAIN EXCHANGES BY MANUFACTURER, ETC.—

"(1) USE TREATED AS SALE.—Except as provided in subsections (b) and (e), if any person manufactures, produces, or imports any taxable chemical and uses such chemical, then such person shall be liable for tax under section 4661 in the same manner as if such chemical were sold by such person.

"(2) SPECIAL RULES FOR INVENTORY EXCHANGES.—

"(A) IN GENERAL.—Except as provided in this paragraph, in any case in which a manufacturer, producer, or import-

er of a taxable chemical exchanges such chemical as part of an inventory exchange with another person—

"(i) such exchange shall not be treated as a sale, and

"(ii) such other person shall, for purposes of section 4661, be treated as the manufacturer, producer, or importer of such chemical.

"(B) REGISTRATION REQUIREMENT.—Subparagraph (A) shall not apply to any inventory exchange unless—

"(i) both parties are registered with the Secretary as manufacturers, producers, or importers of taxable chemicals, and

"(ii) the person receiving the taxable chemical has, at such time as the Secretary may prescribe, notified the manufacturer, producer, or importer of such person's registration number and the internal revenue district in which such person is registered.

"(C) INVENTORY EXCHANGE.—For purposes of this paragraph, the term 'inventory exchange' means any exchange in which 2 persons exchange property which is, in the hands of each person, property described in section 1221(1)."

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on November 1, 1985.

(2) REPEAL OF TAX ON XYLENE FOR PERIODS BEFORE OCTOBER 1, 1985.—

(A) REFUND OF TAX PREVIOUSLY IMPOSED.—In the case of any tax imposed by section 4661 of the Internal Revenue Code of 1954 on the sale or use of xylene before October 1, 1985, such tax (including interest, additions to tax, and additional amounts) shall not be assessed, and if assessed, the assessment shall be abated, and if collected shall be credited or refunded (with interest) as an overpayment.

(B) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of subparagraph (A) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

(C) XYLENE TO INCLUDE ISOMERS.—For purposes of this paragraph, the term "xylene" shall include any isomer of xylene whether or not separated.

(3) INVENTORY EXCHANGES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by subsection (g) shall apply as if included in the amendments made by section 211 of the Hazardous Substance Response Revenue Act of 1980.

(B) RECIPIENT MUST AGREE TO TREATMENT AS MANUFACTURER.—In the case of any inventory exchange before January 1, 1986, the amendment made by subsection (g) shall

apply only if the person receiving the chemical from the manufacturer, producer, or importer in the exchange agrees to be treated as the manufacturer, producer, or importer of such chemical for purposes of subchapter B of chapter 38 of the Internal Revenue Code of 1954.

(C) EXCEPTION WHERE MANUFACTURER PAID TAX.—In the case of any inventory exchange before January 1, 1986, the amendment made by subsection (g) shall not apply if the manufacturer, producer, or importer treated such exchange as a sale for purposes of section 4661 of such Code and paid the tax imposed by such section.

(D) REGISTRATION REQUIREMENTS.—Section 4662(c)(2)(B) of such Code (as added by subsection (g)) shall apply to exchanges made after December 31, 1985.

SEC. 414. REPEAL OF POST-CLOSURE TAX AND TRUST FUND.

(a) REPEAL OF TAX.—

(1) Subchapter C of chapter 38 of the Internal Revenue Code of 1954 (relating to tax on hazardous wastes) is hereby repealed.

(2) The table of subchapters for such chapter 38 is amended by striking out the item relating to subchapter C.

(b) REPEAL OF TRUST FUND.—Section 232 of the Hazardous Substance Response Revenue Act of 1980 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1983.

SEC. 415. WASTE MANAGEMENT TAX.

(a) GENERAL RULE.—Chapter 38 of the Internal Revenue Code of 1954 (as amended by section 414 of this Act) is amended by adding after subchapter B the following new subchapter:

"Subchapter C—Hazardous Waste Management Tax

"Sec. 4671. Waste management tax.
"Sec. 4672. Exemptions; reduction of tax where prior taxable event.
"Sec. 4673. Special rules for waste water treatment, incineration, etc.
"Sec. 4674. Backup tax on generator.
"Sec. 4675. Definitions and special rules.

"SEC. 4671. WASTE MANAGEMENT TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on—

"(1) the receipt of hazardous waste at a qualified hazardous waste management unit,

"(2) the receipt of hazardous waste for transport from the United States for the purpose of ocean disposal, and

"(3) the exportation of hazardous waste from the United States.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) with respect to each ton of hazardous waste shall be determined in accordance with the following table:

	If the taxable event is:	
"For calendar year:	Land Disposal	Any Other Taxable Event
	The tax per ton is:	
1986	$27.00	$2.70
1987	30.00	3.00
1988	31.00	3.00
1989	36.00	3.00
1990	43.00	3.00.

"(2) DEFINITIONS RELATING TO AMOUNT OF TAX.—For definition of—

"(A) hazardous waste, see section 4675(a)(1), and

"(B) land disposal and any other taxable event, see section 4675(a)(5).

"(c) LIABILITY FOR TAX.—

"(1) WASTE RECEIVED AT MANAGEMENT UNITS.—The tax imposed by subsection (a)(1) shall be paid by the owner or operator of the qualified hazardous waste management unit.

"(2) WASTE RECEIVED FOR TRANSPORT FROM THE UNITED STATES.—The tax imposed by subsection (a)(2) shall be paid by the person holding the permit issued for transport for ocean disposal under section 102 of the Marine Protection, Research, and Sanctuaries Act of 1972.

"(3) WASTE EXPORTED.—The tax imposed by subsection (a)(3) shall be paid by the exporter.

"(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1990.

"SEC. 4672. EXEMPTIONS; REDUCTION OF TAX WHERE PRIOR TAXABLE EVENT.

"(a) EXEMPTION FOR CERTAIN REMOVAL AND REMEDIAL ACTIONS, ETC.—The tax imposed by section 4671 shall not apply to the receipt or export of hazardous waste pursuant to—

"(1) a corrective action specified in—

"(A) an initial or final order, or

"(B) a proposed or final permit,

issued by the Administrator under the Solid Waste Disposal Act or a State under a hazardous waste program authorized under section 3006 of such Act,

"(2) a proposed or final closure plan approved by the Administrator or such a State,

"(3) a removal or remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 which has been selected or approved by the Administrator, or

"(4) an action to correct an emergency situation arising from a product spill which is certified by the Administrator to the Secretary as carrying out the purposes of the Comprehensive

Environmental Response, Compensation, and Liability Act of 1980.

"(b) EXEMPTION FOR WASTE RECEIVED AT ANY FEDERAL FACILITY.—The tax imposed by section 4671 shall not apply to any hazardous waste received at any facility owned by the United States.

"(c) REDUCTION IN TAX WHERE PRIOR TAXABLE EVENT.—

"(1) IN GENERAL.—If—

"(A) tax under section 4671 or 4674 was paid with respect to any hazardous waste, and

"(B) tax under section 4671 is subsequently imposed on such waste (hereinafter in this subsection referred to as the 'later taxable event'),

then the tax under section 4671 on the later taxable event shall be reduced by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount of the reduction determined under this paragraph is the product of—

"(A) the weight of hazardous waste involved in the later taxable event, multiplied by

"(B) the lesser of—

"(i) the highest rate of tax paid under section 4671 or 4674 with respect to any prior taxable event involving such waste (determined without regard to this subsection), or

"(ii) the rate of tax imposed by section 4671 with respect to the later taxable event (as so determined).

"SEC. 4673. SPECIAL RULES FOR WASTE WATER TREATMENT, INCINERATION, ETC.

"(a) EXEMPTION FOR WASTE RECEIVED AT CERTAIN WASTE WATER TREATMENT UNITS.—The tax imposed by section 4671 shall not apply to hazardous waste received at any waste water treatment unit.

"(b) INCINERATION, ETC. WITHIN 90 DAYS OF RECEIPT.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

"(A) tax under section 4671 was paid with respect to the receipt of any hazardous waste at any qualified hazardous waste management unit or for transport described in section 4671(a)(2), and

"(B) such waste is incinerated on land (or the equivalent of incineration on land) by any person within 90 days after the date of the first receipt referred to in subparagraph (A),

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4671.

"(2) EQUIVALENT OF INCINERATION.—For purposes of subparagraph (A), a method, technique, or process shall be treated as the equivalent of incineration on land if—

"(A) such method, technique, or process meets detailed performance standards established by the Environmental Protection Agency, and

"(B) such standards require a destruction and removal efficiency for the hazardous waste involved at least equivalent to the destruction and removal efficiency applicable to incineration on land.

"(c) QUALIFIED CHEMICAL FUELS OR SOLVENTS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

"(A) tax under section 4671 was paid with respect to any hazardous waste,

"(B) such waste is used by any person in the production of any qualified chemical fuel or solvent, and

"(C) such fuel or solvent is by such person sold for use or used in any industrial or commercial use,

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4671.

"(2) QUALIFIED CHEMICAL FUEL OR SOLVENT.—For purposes of subparagraph (A), the term 'qualified chemical fuel or solvent' means any chemical or solvent which is determined by the Administrator as not being a hazardous waste.

"(d) RECYCLING OF BATTERIES.—Under regulations prescribed by the Secretary, if—

"(1) tax under section 4671 was paid with respect to the receipt of any battery at a qualified hazardous waste management unit, and

"(2) the recycling of such battery begins at such a unit by any person within 90 days after the date of the first receipt of such battery at any qualified hazardous waste management unit,

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4671.

"(e) TAX TO APPLY WHILE CORRECTIVE ACTION NOT COMPLETED.—

"(1) IN GENERAL.—The exemption provided by subsection (a) shall not apply (and no credit or refund shall be allowed under this section) with respect to any activity conducted at a facility (or part thereof) during the period that required corrective action remains uncompleted with respect to such facility (or part).

"(2) REQUIRED CORRECTIVE ACTION.—For purposes of paragraph (1), required corrective action shall be treated as uncompleted during the period—

"(A) beginning on the date that the corrective action is required by the Administrator or an authorized State pursuant to a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, and

"(B) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

"(3) RATE OF TAX WITH RESPECT TO WASTE WATER TREATMENT.—The rate of tax imposed by section 4671 by reason of this subsection with respect to hazardous waste received at any waste water treatment unit shall be 15 cents per ton.

"SEC. 4674. BACKUP TAX ON GENERATOR.

"(a) IMPOSITION OF TAX.--There is hereby imposed a tax on each ton of hazardous waste which, as of the close of the 270-day period beginning on the day after the day on which such waste was generated, has not been—

"(1) received at a qualified hazardous waste management unit,

"(2) received for transport from the United States for the purpose of ocean disposal, or

"(3) exported from the United States.

"(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be the rate of tax applicable to land disposal under section 4671 at the end of the 270-day period described in subsection (a).

"(c) LIABILITY FOR TAX.--The tax imposed by subsection (a) shall be paid by the generator of the hazardous waste.

"(d) EXEMPTIONS.—

"(1) SMALL GENERATORS.—The tax imposed by subsection (a) shall not apply to hazardous waste generated during any month if the generator of such waste does not generate more than 100 kilograms of hazardous waste during such month.

"(2) WASTE LEGALLY DISPOSED OF IN PUBLICLY OWNED TREATMENT WORKS.—The tax imposed by subsection (a) shall not apply to hazardous waste disposed of in any publicly owned treatment works if the disposal of such waste is not in violation of Federal, State, or local law.

"(3) OTHER EXEMPTIONS TO APPLY.—The exemptions provided by subsections (a) and (b) of section 4672 shall apply to the tax imposed by subsection (a).

"(4) EXEMPTIONS UNDER REGULATIONS; APPLICATION OF LOWER RATE.—The Secretary may prescribe regulations which provide exemptions from the tax imposed by subsection (a) (or the application of a lower rate) which are not inconsistent with the purposes of this section.

"(e) GENERATOR.—For purposes of this section, the term 'generator' means the person whose act or process produces the hazardous waste.

"(f) TERMINATION.—No tax shall be imposed by this section on waste generated after September 30, 1990.

"SEC. 4675. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) HAZARDOUS WASTE.—The term 'hazardous waste' means any waste which is listed or identified as of the date of the enactment of the Superfund Revenue Act of 1985 under section 3001 of the Solid Waste Disposal Act. Rainwater shall not be treated as hazardous waste unless mixed with hazardous waste (as defined in the preceding sentence).

"(2) QUALIFIED HAZARDOUS WASTE MANAGEMENT UNIT.—The term 'qualified hazardous waste management unit' means the specified area of land or structure—

"(A) which isolates the hazardous wastes within a qualified hazardous waste facility, and

"(B) which is subject to the requirements for obtaining interim status or a final permit under subtitle C of the Solid Waste Disposal Act.

"(3) QUALIFIED HAZARDOUS WASTE MANAGEMENT FACILITY.—The term 'qualified hazardous waste management facility' means any facility, as defined under subtitle C of the Solid Waste Disposal Act, which has received a permit or is accorded interim status under—

"(A) section 3005 of the Solid Waste Disposal Act, or

"(B) a State program authorized under section 3006 of such Act.

"(4) OCEAN DISPOSAL.—The term 'ocean disposal' means the incineration or dumping of hazardous waste over or into ocean waters or the waters described in section 101(b) of the Marine Protection, Research, and Sanctuaries Act of 1972, pursuant to section 102 of such Act.

"(5) DEFINITIONS RELATING TO AMOUNT OF TAX.—

"(A) LAND DISPOSAL.—The term 'land disposal' means a taxable event described in section 4671(a)(1) with respect to a qualified hazardous waste management unit which is a landfill, surface impoundment, waste pile, or land treatment unit.

"(B) LANDFILL, ETC.—For purposes of subparagraph (A), the terms 'landfill', 'surface impoundment', 'waste pile' and 'land treatment unit' have the respective meanings given such terms in regulations prescribed by the Administrator pursuant to sections 3004 and 3005 of the Solid Waste Disposal Act.

"(C) OTHER TAXABLE EVENT.—The term 'any other taxable event' means—

"(i) a taxable event described in section 4671(a)(1) which is not land disposal, and

"(ii) a taxable event described in paragraph (2) or (3) of section 4671(a).

"(6) WASTE WATER TREATMENT UNIT.—The term 'waste water treatment unit' means any qualified hazardous waste management unit which is an integral and necessary part of a treatment system—

"(A) for which a permit is required under section 402 of the Clean Water Act,

"(B) which is subject to pretreatment standards under subsection (b) or (c) of section 307 of the Clean Water Act, or

"(C) which is a zero discharge treatment system—

"(i) which, if the system discharged into navigable waters, would comply with effluent limitation guidelines prescribed under paragraph (2) or (4) of section 304(b) of the Clean Water Act,

"(ii) which, if the system discharged into a publicly owned treatment works, would comply with the pretreatment standards described in subparagraph (B), or

"(iii) if no such guidelines or standards have been prescribed, which employs biological treatment.

The term 'waste water treatment unit' shall not include any qualified hazardous waste management unit which receives for storage or final disposition concentrated treatment residues resulting from wastewater treatment.

"(7) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(8) UNITED STATES.—The term 'United States' has the meaning given such term by section 4612(a)(4).

"(9) TON.—The term 'ton' means 2,000 pounds.

"(10) FRACTIONAL PART OF TON.—In the case of a fraction of a ton, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole ton.

"(b) TREATMENT OF CONTAINERS, ETC. WHICH ARE RELATED TO INJECTION UNITS.—For purposes of this subchapter—

"(1) any container, tank, or surface impoundment which, with respect to any hazardous waste, is used to treat or store such waste before underground injection of such waste (whether or not the waste when injected is hazardous waste) into an injection well, and

"(2) the injection well into which such waste is injected,

shall be treated as a single hazardous waste management unit.

"(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsection (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter."

(b) INFORMATION REPORTING REQUIREMENT.—

(1) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after section 6039D the following new section:

"SEC. 6039E. INFORMATION WITH RESPECT TO MANAGEMENT TAX ON HAZARDOUS WASTE.

"Each person on whom a tax is imposed under subchapter C of chapter 38 shall (at such time and in such manner as the Secretary may require) submit to the Secretary such information as the Secretary may require, including information which such person is required to provide the Administrator of the Environmental Protection Agency under the Solid Waste Disposal Act. To the extent provided in regulations prescribed by the Secretary, the preceding sentence shall also apply to persons not described therein with respect to information which the Secretary determines is necessary or appropriate to the administration of such subchapter."

(2) PENALTY.—Subchapter B of chapter 68 of such Code (relating to assessable penalties) is amended by redesignating section 6708 (relating to mortgage credit certificates) as section 6709 and by adding at the end thereof the following new section:

"SEC. 6710. FAILURE TO PROVIDE INFORMATION WITH RESPECT TO MANAGEMENT TAX ON HAZARDOUS WASTE.

"(a) IN GENERAL.—Any person who fails to meet any requirement imposed by section 6039E shall pay a penalty of $100 for each day during which such failure continues, unless it is shown that such failure is due to reasonable cause and not due to willful ne-

glect. The maximum penalty imposed under this subsection with respect to any failure shall not exceed $50,000.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law."

(3) CONFORMING AMENDMENTS.—

(A) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039D the following new item:

"Sec. 6039E. Information with respect to management tax on hazardous waste."

(B) The table of sections for subchapter B of chapter 68 of such Code is amended by redesignating the item relating to mortgage credit certificates as section 6709 and by adding at the end thereof the following new item:

"Sec. 6710. Failure to provide information with respect to management tax on hazardous waste."

(c) PENALTY FOR NEGLIGENCE TO APPLY TO ENVIRONMENTAL TAXES.—Section 6653 of such Code (relating to failure to pay tax) is amended by adding at the end thereof the following new subsection:

"(i) NEGLIGENCE PENALTY TO APPLY TO ENVIRONMENTAL TAXES.—For purposes of applying paragraphs (1) and (2) of subsection (a), paragraph (1) of subsection (a) shall be treated as including a reference to underpayments (as defined in subsection (c)) of tax imposed by chapter 38 (relating to environmental taxes)."

(d) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by adding after the item relating to subchapter B the following new item:

"Subchapter C. Hazardous waste management tax."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1986.

(2) BACKUP TAX ON GENERATOR.—Section 4674 of the Internal Revenue Code of 1954 (relating to backup tax on generator), as added by this section, shall apply to waste generated after December 31, 1986.

SEC. 416. TAX ON CERTAIN IMPORTED SUBSTANCES DERIVED FROM TAXABLE CHEMICALS.

(a) GENERAL RULE.—Chapter 38 of the Internal Revenue Code of 1954 is amended by adding after subchapter C the following new subchapter:

"Subchapter D—Tax on Certain Imported Substances

"Sec. 4677. Imposition of tax.
"Sec. 4678. Definitions and special rules.

"SEC. 4677. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable substance sold or used by the importer thereof.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the tax imposed by subsection (a) with respect to any taxable substance shall be the amount of the tax which would have been imposed by section 4661 on the taxable chemicals or petroleum used as materials or process fuel in the manufacture or production of such substance if such taxable chemicals or petroleum had been sold in the United States for use in the manufacture or production of such taxable substance.

"(2) RATE WHERE IMPORTER DOES NOT FURNISH INFORMATION TO SECRETARY.—If the importer does not furnish to the Secretary (at such time and in such manner as the Secretary shall prescribe) sufficient information to determine under paragraph (1) the amount of the tax imposed by subsection (a) on any taxable substance, the amount of the tax imposed on such taxable substance shall be 5 percent of the appraised value of such substance as of the time such substance was entered into the United States for consumption, use, or warehousing.

"(c) EXEMPTIONS FOR SUBSTANCES TAXED UNDER SECTIONS 4611 AND 4661.—No tax shall be imposed by this section on the sale or use of any substance if tax is imposed on such sale or use under section 4611 or 4661.

"(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1990.

"SEC. 4678. DEFINITIONS AND SPECIAL RULES.

"(a) TAXABLE SUBSTANCE.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'taxable substance' means any substance which, at the time of sale or use by the importer, is listed as a taxable substance by the Secretary for purposes of this subchapter.

"(2) DETERMINATION OF SUBSTANCES ON LIST.—A substance shall be listed under paragraph (1) if the Secretary determines, in consultation with the Administrator of the Environmental Protection Agency and the Commissioner of Customs, that such substance generally has more than 50 percent of its value derived (as materials or as process fuel) from taxable chemicals or petroleum (determined on the basis of the predominant method of production).

"(3) MODIFICATIONS TO LIST.—The Secretary may add or remove substances from the list under paragraph (2) as necessary to carry out the purposes of this subchapter.

"(b) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) IMPORTER.—The term 'importer' means the person entering the taxable substance for consumption, use, or warehousing.

"(2) TAXABLE CHEMICALS; UNITED STATES.—The terms 'taxable chemical' and 'United States' have the respective meanings given such terms by section 4662(a).

"(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4677."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by adding after the item relating to subchapter C the following new item:

"Subchapter D. Tax on certain imported substances."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

SEC. 417. IMPOSITION OF SUPERFUND EXCISE TAX.

(a) IN GENERAL.—Chapter 38 of the Internal Revenue Code of 1954 is amended by adding after subchapter D the following new subchapter:

"Subchapter E—Superfund Excise Tax

"Part I. Imposition of tax.
"Part II. Taxable transaction.
"Part III. Taxable amount; exempt transactions; credit against tax.
"Part IV. Administration.
"Part V. Definitions; special rules.

"PART I—IMPOSITION OF TAX

"Sec. 4681. Imposition of tax.
"Sec. 4682. Termination.

"SEC. 4681. IMPOSITION OF TAX.

"(a) GENERAL RULE.—A tax is hereby imposed on each taxable transaction.

"(b) AMOUNT OF TAX.—Except as otherwise provided in this subchapter, the amount of the tax shall be .08 percent of the taxable amount.

"SEC. 4682. TERMINATION.

"(a) IN GENERAL.—No tax shall be imposed under section 4681 after December 31, 1990.

"(b) TERMINATION IF $10,000,000,000 OF SUPERFUND TAXES COLLECTED.—

"(1) ESTIMATES BY THE SECRETARY.—The Secretary as of the close of each calendar quarter shall make an estimate of the aggregate amount appropriated or credited to the Hazardous Substance Superfund (other than by reason of paragraphs (3), (4), and (5) of section 9505(b)) during the period beginning on November 1, 1985, and ending on September 30, 1990.

"(2) TERMINATION IF $10,000,000,000 CREDITED BEFORE SEPTEMBER 30, 1990.—If the Secretary estimates under paragraph (1) that more than $10,000,000,000 of the amount referred to in paragraph (1) will be credited to the Fund as of the close of any calendar quarter before September 30, 1990, no tax shall be imposed under section 4681 after such quarter.

"(c) PROCEDURES FOR TERMINATION.—

"(1) PRORATION OVER TAXABLE PERIOD.—In the case of any taxable period which begins before and ends after the termination date determined under subsection (a) or (b), the tax imposed by section 4681 on taxable transactions described in paragraph (1) of section 4683(a) (and the credit allowable under section 4687) for such taxable period shall be equal to an

amount which bears the same ratio to the amount of such tax (and credit) for such taxable period (determined without regard to the termination) as—

"(A) the number of days in such taxable period up to and including the date of termination, bears to

"(B) the number of days in such taxable period.

"(2) TAX ON IMPORTS.—The tax imposed by section 4681 on taxable transactions described in paragraph (2) of section 4683(a) shall not apply to property imported after the termination date determined under subsection (a) or (b).

"(3) OTHER PROCEDURES.—The Secretary shall by regulation provide such procedures for a termination under this section as the Secretary determines necessary.

"PART II TAXABLE TRANSACTION

"Sec. 4683. Taxable transaction.
"Sec. 4684. Taxable person.

"SEC. 4683. TAXABLE TRANSACTION.

"(a) IN GENERAL.—For purposes of this subchapter except as otherwise provided in this subchapter, the term 'taxable transaction' means—

"(1) the sale or leasing of tangible personal property by a taxable person in connection with a trade or business, or

"(2) the importing of tangible personal property into the United States by a taxable person.

"(b) EXEMPT TRANSACTIONS.—

"For exempt transactions, see section 4686.

"SEC. 4684. TAXABLE PERSON.

"(a) GENERAL RULE.—Except as otherwise provided in this subchapter, for purposes of this subchapter, the term 'taxable person' means—

"(1) in the case of a taxable transaction described in paragraph (1) of section 4683(a)—

"(A) the manufacturer of the tangible personal property, or

"(B) any person who included the costs of the tangible personal property in such person's qualified inventory costs, and

"(2) in the case of a taxable transaction described in paragraph (2) of section 4683(a), the importer of the tangible personal property.

"(b) GOVERNMENT ENTITIES AND EXEMPT ORGANIZATIONS NOT TAXABLE PERSONS.—For purposes of this subchapter, the term 'taxable person' shall not include—

"(1) the United States, any State or political subdivision thereof, the District of Columbia, a Commonwealth or possession of the United States, or any agency or instrumentality of the foregoing, and

"(2) any organization which is exempt from taxation under chapter 1 by reason of section 501(a); except that this paragraph shall not apply with respect to any transaction which is

part of an unrelated trade or business (within the meaning of section 513) of such organization.

"PART II—TAXABLE AMOUNT; EXEMPT TRANSACTIONS; CREDIT AGAINST TAX

"Sec. 4685. Taxable amount.
"Sec. 4686. Exempt transactions.
"Sec. 4687. Credit against tax on sales and leases.

"SEC. 4685. TAXABLE AMOUNT.

"(a) SALE.—For purposes of this subchapter, the taxable amount for any sale shall be the price (in money or fair market value of other consideration) charged the purchaser of the property by the seller thereof—

"(1) including items payable to the seller with respect to such transaction, but

"(2) excluding the tax imposed by section 4681 or chapter 32 with respect to such transaction.

"(b) IMPORTS.—For purposes of this subchapter, the taxable amount in the case of any import shall be the sum of—

"(1) the customs value, plus

"(2) customs duties and any other duties which may be imposed.

If there is no such customs value, fair market value (determined in a manner similar to the determination of customs value) shall be substituted for customs value in paragraph (1).

"(c) LEASES.—For purposes of this subchapter, the taxable amount in the case of any lease shall be the gross payments under the lease.

"(d) CONTAINERS, PACKING, AND TRANSPORTATION CHARGES; CONSTRUCTIVE SALES PRICE.—Under regulations, rules similar to the rules of subsections (a) and (b) of section 4216 (relating to containers, packing, and transportation charges, etc., and constructive sales price) shall apply in computing the taxable amount.

"(e) SPECIAL RULE WHERE SALE OR LEASE PAYMENTS RECEIVED IN MORE THAN 1 TAXABLE PERIOD.—

"(1) SALES.—In the case of a sale of any tangible personal property where the consideration is received by the seller in more than 1 taxable period—

"(A) in the case of the seller, the taxable amount for each such taxable period shall be the portion of the taxable amount received during such period, and

"(B) in the case of the buyer, the cost of such property shall be taken into account for purposes of determining qualified inventory costs only when paid.

"(2) LEASES.—In the case of a lease with a term which includes more than 1 taxable period, the taxable amount for each taxable period shall include the gross lease payments received by the taxable person during such taxable period.

"SEC. 4686. EXEMPT TRANSACTIONS.

"(a) IMPORTS OF $10,000 OR LESS.—No tax shall be imposed under section 4681 on any tangible personal property imported into the United States as part of a shipment (within the meaning of section

498(a)(1) of the Tariff Act of 1930; 19 U.S.C. 1498(a)(1)) the aggregate taxable amount of which is $10,000 or less.

"(b) EXPORTS.—Under regulations, no tax shall be imposed under section 4681 on the sale of any property which is to be exported from the United States.

"(c) CERTAIN EXEMPT PRODUCTS.—

"(1) IN GENERAL.—In the case of any exempt product—

"(A) no tax shall be imposed by section 4681 with respect to such product, and

"(B) any qualified inventory costs allocable to such product shall not be taken into account under section 4687.

"(2) EXEMPT PRODUCT.—For purposes of this section—

"(A) IN GENERAL.—The term 'exempt product' means—

"(i) any food product,

"(ii) any unprocessed agricultural or fishery product,

"(iii) any unprocessed timber, and

"(iv) any fertilizer product.

"(B) FOOD PRODUCT.—The term 'food product' means—

"(i) any food or nonalcoholic drink for humans or animals, and

"(ii) any material, component, or packaging of such a food or drink.

"(C) FERTILIZER PRODUCT.—The term 'fertilizer product' means—

"(i) any product to be used as a fertilizer, and

"(ii) any material, component, or packaging of such a product.

"SEC. 4687. CREDIT AGAINST TAX ON SALES AND LEASES.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by section 4681 for any taxable period on taxable transactions described in paragraph (1) of section 4683(a) an amount equal to the greater of—

"(1) .08 percent of the qualified inventory costs of the taxable person for the taxable period, or

"(2) $8,000.

"(b) LIMITATION BASED ON TAX LIABILITY; CARRYFORWARD OF EXCESS CREDIT.—

"(1) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by subsection (a) for any taxable period shall not exceed the liability for tax imposed by section 4681 on taxable transactions described in paragraph (1) of section 4683(a) for such period.

"(2) CARRYFORWARD OF EXCESS CREDIT.—If the credit allowable under subsection (a)(1) for any taxable period exceeds the limitation imposed by paragraph (1), such credit shall be carried to the succeeding taxable period and added to the credit allowable under subsection (a)(1) for such succeeding taxable period.

"(c) QUALIFIED INVENTORY COSTS.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'qualified inventory costs' means, with respect to any taxable period, the costs of tangible personal property which—

"(A) are allocable to the inventory of a manufacturer under the full absorption method of accounting under section 471, and

"(B) are paid or incurred by the taxable person during such taxable period.

"(2) SPECIAL RULES.—For purposes of this subsection—

"(A) EXPENSING RATHER THAN DEPRECIATION OR AMORTIZATION.—If any portion of an allowance for depreciation or amortization with respect to any property would be allocable to the inventory of a manufacturer under the full absorption method of accounting, a like portion of the cost of such property shall be included in the qualified inventory costs of the taxpayer for the taxable period in which such property is placed in service. Treatment under the preceding sentence shall be in lieu of any allowance for depreciation or amortization.

"(B) PROPERTY MANUFACTURED FOR LEASE BY MANUFACTURER.—For purposes of computing qualified inventory costs, any tangible personal property which is manufactured for lease by the manufacturer shall be treated in the same manner as property which is manufactured for sale by the manufacturer.

"(d) CARRYFORWARD NOT ALLOWED FOR COSTS DURING PERIODS FOR WHICH RETURN NOT FILED.—

"(1) IN GENERAL.—In determining the amount allowable as a carryforward under subsection (b)(2), the qualified inventory costs of the taxable person during any taxable period shall be taken into account only if such person files a timely return (determined with regard to extensions) of the tax imposed by section 4681 for such period.

"(2) BASIS ADJUSTMENT FOR INCOME TAX PURPOSES.—For purposes of subtitle A, if the cost of any property is taken into account in determining the amount of the qualified inventory costs of the taxable person for any taxable period, the adjusted basis of such property shall be reduced by an amount equal to .08 percent of the qualified inventory costs of the taxpayer attributable to such property.

"PART IV—ADMINISTRATION

"Sec. 4688. Liability for tax.
"Sec. 4689. Return requirement; taxable period; depositary requirements.
"Sec. 4690. Regulations.

"SEC. 4688. LIABILITY FOR TAX.

"The taxable person shall be liable for the tax imposed by section 4681.

"SEC. 4689. RETURN REQUIREMENT; TAXABLE PERIOD; DEPOSITARY REQUIREMENTS.

"(a) RETURN REQUIREMENT.—

"(1) IN GENERAL.—Except as provided in this subsection, each taxable person shall file a return of the tax imposed by section 4681 for any taxable period not later than—

"(A) the due date (including extensions) for filing the taxpayer's return of tax under chapter 1, or

"(B) if no return of tax is required under chapter 1—

"(i) April 15 in the case of a taxpayer other than a corporation, and

"(ii) March 15 in the case of a corporation,

including extensions granted for purposes of this subchapter.

"(2) EXCEPTION FOR TAXABLE TRANSACTIONS OF $10,000,000 OR LESS.—A taxable person shall not be required to file a return for any taxable period for taxable transactions described in paragraph (1) of section 4683(a) if the aggregate taxable amount for such transactions is $10,000,000 or less. For purposes of the preceding sentence, there shall not be taken into account any transaction exempt from the tax imposed by section 4681 by reason of secton 4686(c).

"(3) OTHER EXCEPTIONS.—The Secretary may by regulation exempt any taxable person from the requirement of paragraph (1).

"(b) TAXABLE PERIOD.—For purposes of this subchapter, the term 'taxable period' means—

"(1) the taxable person's taxable year for purposes of chapter 1, or

"(2) if there is no taxable year for purposes of chapter 1, the calendar year.

"(c) DEPOSITARY REQUIREMENTS.—

"(1) IN GENERAL.—In the case of any person with respect to whom a tax is imposed under section 4681 for any taxable period on any taxable transaction described in paragraph (1) of section 4683(a), such person shall make quarterly deposits of the estimated amount of such tax for the succeeding taxable period.

"(2) SPECIAL RULE FOR 1ST TAXABLE PERIOD.—Notwithstanding paragraph (1), a deposit shall be required for the 1st taxable period of any taxable person to which this subchapter applies if the gross receipts of such person during the 1st taxable year ending before such taxable period from the sale or leasing of tangible personal property manufactured by such person exceed $50,000,000.

"SEC. 4690. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subchapter.

"PART V—DEFINITIONS; SPECIAL RULES

"Sec. 4691. Definitions; special rules.

"SEC. 4691. DEFINITIONS; SPECIAL RULES.

"(a) MANUFACTURER.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'manufacturer' includes any producer of tangible personal property (including raw materials).

"(2) CERTAIN ACTIVITIES NOT TAKEN INTO ACCOUNT.—A person shall not be treated as a manufacturer with respect to any property merely by reason of—

"(A) furnishing services incidental to the storage or transportation of such property, or

"(B) incidental preparation of property by a retailer or wholesaler (including routine assemblage).

"(b) SPECIAL RULE FOR TAXPAYERS UNDER COMMON CONTROL.—

"(1) IN GENERAL.—All persons which are—

"(A) members of the same controlled group of corporations (within the meaning of section 52(a)), or

"(B) under common control (within the meaning of section 52(b)),

shall be treated as 1 person for purposes of the $8,000 amount specified in section 4687(a)(2), the $10,000,000 amount specified in section 4689(a)(2), and the $50,000,000 amount specified in section 4689(c)(2).

"(2) ALLOCATION OF AMOUNTS.—The amounts specified in paragraph (1) shall be allocated among persons described in paragraph (1) in such manner as the Secretary may prescribe by regulations.

"(c) PERSON.—For purposes of this subchapter, the term 'person' includes any governmental entity.

"(d) UNITED STATES.—For purposes of this subchapter, the term 'United States' has the meaning given such term by section 4612(a)(4).

"(e) TANGIBLE PERSONAL PROPERTY.—For purposes of this subchapter, the term 'tangible personal property' includes gases.

"(f) IMPORT.—Except as otherwise provided in regulations, for purposes of this subchapter, the term 'import' means the entering, or withdrawal from warehouse, for consumption.

"(g) TAX ON IMPORT IN ADDITION TO DUTY.—The tax imposed by section 4681 on the importing of any tangible personal property shall be in addition to any duty imposed on such importation.

"(h) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4681.

"(i) SPECIAL RULE FOR SHORT TAXABLE PERIODS.—In the case of a taxable period which is less than 12 months, there shall be substituted for the dollar amounts otherwise applicable under sections 4687(a)(2) and 4689(a)(2) (determined after the application of subsection (b)) an amount which bears the same ratio to such amounts as the number of days in the taxable period bears to 365.

"(j) SALE TO INCLUDE CERTAIN EXCHANGES AND TRANSFERS.—For purposes of this subchapter, except as provided in regulations, the term 'sale' includes any exchange or other transfer, other than a gift (within the meaning of section 102 or section 170)."

(b) APPLICATION OF CERTAIN PENALTIES.—

(1) FAILURE TO FILE RETURN OR PAY TAX.—Paragraph (1) of section 6651(a) of such Code (relating to addition to tax) is amended by inserting "section 4689 (relating to Superfund excise tax)," before "subchapter A of chapter 51".

(2) FAILURE TO MAKE DEPOSITS.—Section 6656 of such Code (relating to failure to make deposit of taxes or overstatement of deposits) is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULE FOR SUPERFUND EXCISE TAX.—For purposes of subsection (a), in the case of the tax imposed by section 4681, the tax required to be deposited shall be equal to the lesser of—

"(1) 90 percent of the tax imposed by section 4681 during the taxable period on taxable transactions described in paragraph (1) of section 4683(a), or

"(2) the amount of such tax imposed during the preceding taxable period (determined on an annual basis).

Paragraph (2) shall not apply if no tax was imposed during the preceding taxable period.".

(c) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—Paragraph (2) of section 7871(a) of such Code (relating to Indian tribal governments treated as States for certain purposes) is amended by redesignating subparagraphs (A), (B), (C), and (D) as subparagraphs (B), (C), (D), and (E), respectively, and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) subchapter E of chapter 38 (relating to Superfund excise tax),".

(d) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by inserting after the item relating to subchapter D the following new item:

"Subchapter E. Superfund excise tax."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply with respect to taxable amounts received in taxable periods ending after December 31, 1985.

(2) SPECIAL RULE FOR IMPORTS.—In the case of imports, the amendments made by this section shall apply to articles imported after December 31, 1985.

(3) SPECIAL RULE FOR TAXABLE PERIOD INCLUDING JANUARY 1, 1986.—In the case of any taxable period which begins before January 1, 1986, and ends on or after January 1, 1986, the tax imposed by section 4681 of the Internal Revenue Code of 1954 on taxable transactions described in paragraph (1) of section 4683(a) of such Code (and the credit allowable under section 4687 of such Code) for such taxable period shall be equal to an amount which bears the same ratio to the amount of such tax (and credit) for such taxable period (determined as if such tax and credit had been in effect for the entire taxable period) as—

(A) the number of days in such taxable period after December 31, 1985, bears to

(B) the number of days in such taxable period.

SEC. 418. HAZARDOUS SUBSTANCE SUPERFUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9504 the following new section:

"SEC. 9505. HAZARDOUS SUBSTANCE SUPERFUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Hazardous Substance Superfund' (hereinafter in this section re-

ferred to as the 'Superfund'), consisting of such amounts as may be—

"(1) appropriated to the Superfund as provided in this section,

"(2) appropriated to the Superfund pursuant to section 418(b) of the Superfund Revenue Act of 1985, or

"(3) credited to the Superfund as provided in section 9602(b).

"(b) TRANSFERS TO SUPERFUND.—There are hereby appropriated to the Superfund amounts equivalent to—

"(1) the taxes received in the Treasury under section 4611, 4661, 4671, 4674, 4677, or 4681 (relating to environmental taxes),

"(2) amounts recovered on behalf of the Superfund under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this section referred to as 'CERCLA'),

"(3) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,

"(4) penalties assessed under title I of CERCLA, and

"(5) punitive damages under section 107(c)(3) of CERCLA.

"(c) EXPENDITURES FROM SUPERFUND.—

"(1) IN GENERAL.—Amounts in the Superfund shall be available, as provided in appropriation Acts, only for purposes of making expenditures—

"(A) to carry out the purposes of paragraphs (1), (2), (4), and (5) of section 111(a) of CERCLA as in effect on the date of the enactment of the Superfund Amendments of 1985, or

"(B) hereafter authorized by a law which authorizes the expenditure out of the Superfund for a general purpose covered by paragraphs (1), (2), (4), and (5) of such section 111(a) (as so in effect).

"(2) EXCEPTION FOR CERTAIN TRANSFERS, ETC. OF HAZARDOUS SUBSTANCES.—Amounts in the Superfund shall not be available for any transfer or disposal which could not be made but for section 121(i) of CERCLA as in effect on the date of the enactment of the Superfund Amendments of 1985.

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund.

"(2) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made pursuant to this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund.

"(B) FINAL REPAYMENT.—No advance shall be made to the Superfund after September 30, 1990, and all advances to such Fund shall be repaid on or before such date.

"(C) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is

made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

"(e) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Superfund may be paid only out of the Superfund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in CERCLA or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Superfund has insufficient funds to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined."

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund for fiscal year—

(1) 1986, $36,000,000,
(2) 1987, $36,000,000,
(3) 1988, $36,000,000,
(4) 1989, $36,000,000, and
(5) 1990, $36,000,000,

plus for each fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under this subsection (and paragraph (2) of section 221(b) of the Hazardous Substance Response Act of 1980, as in effect before its repeal) as has not been appropriated before the beginning of the fiscal year involved.

(c) CONFORMING AMENDMENTS.—

(1) Subtitle B of the Hazardous Substance Response Revenue Act of 1980 (relating to establishment of Hazardous Substance Response Trust Fund) is hereby repealed.

(2) Paragraph (11) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(11) 'Fund' or 'Trust Fund' means the Hazardous Substance Superfund established by section 9505 of the Internal Revenue Code of 1954;".

(d) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9504 the following new item:

"Sec. 9505. Hazardous Substance Superfund."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on November 1, 1985.

(2) SUPERFUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Hazardous Substance Superfund established by the

amendments made by this section shall be treated for all purposes of law as a continuation of the Hazardous Substance Response Trust Fund established by section 221 of the Hazardous Substance Response Revenue Act of 1980. Any reference in any law to the Hazardous Substance Response Trust Fund established by such section 221 shall be deemed to include (wherever appropriate) a reference to the Hazardous Substance Superfund established by the amendments made by this section.

PART II—LEAKING UNDERGROUND STORAGE TANK TRUST FUND AND ITS REVENUE SOURCES

SEC. 421. ADDITIONAL TAX ON GASOLINE, DIESEL FUEL, AND SPECIAL MOTOR FUELS.

(a) GENERAL RULE.—

(1) GASOLINE.—Section 4081 of the Internal Revenue Code of 1954 (relating to imposition of tax on gasoline) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) TAX TO FUND HIGHWAY PROGRAM.—

"(1) IN GENERAL.—There is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 9 cents a gallon.

"(2) TERMINATION.—On and after October 1, 1988, the tax imposed by paragraph (1) shall not apply.

"(b) ADDITIONAL TAX TO FUND LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—

"(1) IN GENERAL.—In addition to the tax imposed by subsection (a), there is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 0.2 cents a gallon.

"(2) TERMINATION.—

"(A) IN GENERAL.—The tax imposed by paragraph (1) shall not apply after the earlier of—

"(i) September 30, 1990, or

"(ii) the last day of the termination month.

"(B) TERMINATION MONTH.—For purposes of subparagraph (A), the termination month is the 1st month as of the close of which the Secretary estimates that the net revenues from the taxes imposed by paragraph (1) and section 4041(d) are at least $850,000,000.

"(C) NET REVENUES.—For purposes of subparagraph (B), the term 'net revenues' means the excess of gross revenues over amounts payable by reason of section 9506(c)(2) (relating to transfer from Leaking Underground Storage Tank Trust Fund for certain repayments and credits)."

(2) DIESEL AND SPECIAL MOTOR FUELS.—Section 4041 of such Code (relating to tax on special fuels) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL TAX ON DIESEL FUEL AND SPECIAL MOTOR FUELS TO FUND LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—

"(1) DIESEL FUEL.—In addition to the taxes imposed by subsection (a), there is hereby imposed a tax of 0.2 cents a gallon on any liquid (other than a product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle for use as a fuel in such vehicle, or

"(B) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid under subparagraph (A).

"(2) SPECIAL MOTOR FUELS.—In addition to the taxes imposed by subsection (a), there is hereby imposed a tax of 0.2 cents a gallon on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081 or paragraph (1) of this subsection)—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

"(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A).

"(3) TERMINATION.—The taxes imposed by this subsection shall not apply during any period during which no tax is imposed by section 4081(b)."

(b) ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND OR AIRPORT AND AIRWAY TRUST FUND.—

(1) HIGHWAY TRUST FUND.—

(A) IN GENERAL.—Subsection (b) of section 9503 of such Code (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by adding at the end thereof the following new paragraph:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041(d) and 4081(b) shall not be taken into account."

(B) CONFORMING AMENDMENT.—Subparagraph (D) of section 9503(c)(4) of such Code (defining motorboat fuel taxes) is amended by striking out "section 4081" and inserting in lieu thereof "section 4081(a)".

(2) AIRPORT AND AIRWAY TRUST FUND.—Subsection (b) of section 9502 of such Code (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended—

(A) by striking out "subsections (c) and (d) of section 4041" in paragraph (1) and inserting in lieu thereof "subsections (c) and (e) of section 4041", and

(B) by striking out "section 4081" in paragraph (2) and inserting in lieu thereof "section 4081(a)".

(c) REPAYMENTS FOR GASOLINE USED ON FARMS, ETC.—

(1) GASOLINE USED ON FARMS.—Subsection (h) of section 6420 of such Code (relating to termination) is amended by striking out "This section" and inserting in lieu thereof "Except with respect to taxes imposed by section 4081(b), this section".

(2) GASOLINE USED FOR CERTAIN NONHIGHWAY PURPOSES OR BY LOCAL TRANSIT SYSTEMS.—Subsection (h) of section 6421 of such Code (relating to effective date) is amended by striking out "This section" and inserting in lieu thereof "Except with respect to taxes imposed by section 4081(b), this section".

(3) FUELS USED FOR NONTAXABLE PURPOSES.—

(A) Subsection (m) of section 6427 of such Code (relating to termination) is amended by striking out "Subsections" and inserting in lieu thereof "Except with respect to taxes imposed by sections 4041(d) and 4081(b), subsections".

(B) Section 6427 of such Code is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) PAYMENTS FOR TAXES IMPOSED BY SECTION 4041(d).—For purposes of subsections (a), (b), and (c), the taxes imposed by section 4041(d) shall be treated as imposed by section 4041(a)."

(C) Paragraph (1) of section 6427(f) of such Code (relating to gasoline used to produce certain alcohol fuels) is amended by striking out "section 4081" and inserting in lieu thereof "section 4081(a)".

(d) CONTINUATION OF CERTAIN EXEMPTIONS FROM ADDITIONAL TAXES.—

(1) Subsection (b) of section 4041 of such Code (relating to exemption for off-highway business use; exemption for qualified methanol and ethanol fuel) is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH TAXES IMPOSED BY SUBSECTION (d).—

"(A) IN GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of paragraphs (1) and (2) shall apply with respect to the taxes imposed by subsection (d).

"(B) TERMINATION NOT TO APPLY.—Subparagraph (C) of paragraph (2) shall not apply with respect to the taxes imposed by subsection (d)."

(2) Paragraph (3) of section 4041(f) of such Code (relating to exemption for farm use) is amended by striking out "On and after" and inserting in lieu thereof "Except with respect to the taxes imposed by subsection (d), on and after".

(3) The last sentence of section 4041(g) of such Code (relating to other exemptions) is amended by striking out "Paragraphs" and inserting in lieu thereof "Except with respect to the taxes imposed by subsection (d), paragraphs".

(4) The last sentence of section 4221(a) of such Code (relating to certain tax-free sales) is amended by striking out "4081" and inserting in lieu thereof "4081(a)".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

SEC. 422. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9505 the following new section:

"SEC. 9506. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Leaking Underground Storage Tank Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Leaking Underground Storage Tank Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under sections 4041(d) and 4081(b) (relating to additional taxes on motor fuels and gasoline), and

"(2) amounts collected under section 9003(h)(3) of the Solid Waste Disposal Act.

"(c) EXPENDITURES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), amounts in the Leaking Underground Storage Tank Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out section 9003(h) of the Solid Waste Disposal Act as in effect on the date of the enactment of the Superfund Amendments of 1985.

"(2) TRANSFERS FROM TRUST FUND FOR CERTAIN REPAYMENTS AND CREDITS.—

"(A) IN GENERAL.—The Secretary shall pay from time to time from the Leaking Underground Storage Tank Trust Fund into the general fund of the Treasury amounts equivalent to—

"(i) amounts paid under—

"(I) section 6420 (relating to amounts paid in respect of gasoline used on farms),

"(II) section 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems), and

"(III) section 6427 (relating to fuels not used for taxable purposes), and

"(ii) credits allowed under section 34,

with respect to the taxes imposed by sections 4041(d) and 4081(b).

"(B) TRANSFERS BASED ON ESTIMATES.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(d) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Leaking Underground Storage Tank Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall author-

ize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Leaking Underground Storage Tank Trust Fund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Leaking Underground Storage Tank Trust Fund has insufficient funds to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9505 the following new item:

"Sec. 9506. Leaking Underground Storage Tank Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

PART III—OIL SPILL LIABILITY TRUST FUND AND ITS REVENUE SOURCES

SEC. 431. INCREASE IN ENVIRONMENTAL TAX ON PETROLEUM.

(a) IN GENERAL.—Subsections (a) and (b) of section 4611 of the Internal Revenue Code of 1954 (relating to environmental tax on petroleum), as amended by section 411 of this Act, are each amended by striking out "of 3.85 cents a barrel" and inserting in lieu thereof "at the rate specified in subsection (c)".

(b) INCREASE IN TAX.—Section 4611 of such Code is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the taxes imposed by this section is the sum of—

"(A) the Hazardous Substance Superfund financing rate, and

"(B) the Oil Spill Liability Trust Fund financing rate.

"(2) RATES.—For purposes of paragraph (1)—

"(A) the Hazardous Substance Superfund financing rate is 3.85 cents a barrel, and

"(B) the Oil Spill Liability Trust Fund financing rate is 1.3 cents a barrel."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4611 of such Code (relating to application of taxes), as redesignated by subsection (b), is amended to read as follows:

"(e) APPLICATION OF TAXES.—

"(1) SUPERFUND RATE.—The Hazardous Substance Superfund financing rate under subsection (c) shall apply after October 31, 1985, and before October 1, 1990.

"(2) OIL SPILL RATE.—The Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1985, and before October 1, 1990."

(2) Subsection (d) of section 4661 of such Code (relating to termination of tax on certain chemicals) is amended to read as follows:

"(d) APPLICATION OF TAXES.—The tax imposed by this section shall apply after October 31, 1985, and before October 1, 1990."

(3) Subsection (b) of section 9505 of such Code (relating to transfers to Superfund) is amended by adding at the end thereof the following:

"In the case of the tax imposed by section 4611, paragraph (1) shall apply only to so much of such tax as is attributable to the Superfund financing rate under section 4611(c)."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 432. OIL SPILL LIABILITY TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9506 the following new section:

"SEC. 9507. OIL SPILL LIABILITY TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Oil Spill Liability Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Oil Spill Liability Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under section 4611 (relating to environmental tax on petroleum) to the extent attributable to the Oil Spill Liability Trust Fund financing rate under section 4611(c),

"(2) amounts recovered, collected, or received under title I of the Comprehensive Oil Pollution Liability and Compensation Act,

"(3) amounts remaining on the date of the enactment of this section in the Deep Water Port Liability Fund established by section 18(f) of the Deep Water Port Act of 1974, and

"(4) amounts remaining on the date of the enactment of this section in the Offshore Oil Pollution Compensation Fund established under section 302 of the Outer Continental Shelf Lands Act Amendments of 1978.

"(c) EXPENDITURES.—

"(1) IN GENERAL.—Amounts in the Oil Spill Liability Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures for—

"(A) the payment of removal costs described in section 101(24)(A) of the Comprehensive Oil Pollution Liability and Compensation Act, as in effect on the date of the enactment of this section,

"(B) the payment of contributions to the International Fund under section 404 of such Act,

"(C) the payment of removal costs for which the Deep Water Port Liability Fund is liable under the Deep Water Port Act of 1974,

"(D) the payment of removal costs for which the Offshore Oil Pollution Compensation Fund is liable under title III of the Outer Continental Shelf Lands Act Amendments of 1978, and

"(E) the payment of all expenses of administration incurred by the Federal Government under the Comprehensive Oil Pollution Liability and Compensation Act.

Under regulations prescribed by the Secretary, amounts shall be available under subparagraph (B) with respect to any contribution to the International Fund only in proportion to the portion of the International Fund used for the payment of response costs.

"(2) LIMITATIONS ON EXPENDITURES.—

"(A) $200,000,000 PER INCIDENT.—The maximum amount which may be paid from the Oil Spill Liability Trust Fund with respect to any single incident shall not exceed $200,000,000.

"(B) $30,000,000 MINIMUM BALANCE.—Except in the case of payments described in paragraph (1)(A), a payment may be made from such Trust Fund only if the amount in such Trust Fund after such payment will not be less than $30,000,000.

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Oil Spill Liability Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.

"(2) LIMITATION ON AMOUNT OUTSTANDING.—The maximum aggregate amount of repayable advances to the Oil Spill Liability Trust Fund which is outstanding at any one time shall not exceed $300,000,000.

"(3) REPAYMENT OF ADVANCES.—Rules similar to the rules of paragraph (2) of section 9505(d) shall apply for purposes of this subsection.

"(e) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Oil Spill Liability Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Oil Pollution Liability and Compensation Act or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Oil Spill Liability Trust Fund.

"(f) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Oil Spill Liability Trust Fund has insufficient funds (or is unable by reason of subsection (c)(2)) to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under such subsections, be paid in full in the order in which they were finally determined."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9506 the following new item:

"Sec. 9507. Oil Spill Liability Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

PART IV—STUDIES

SEC. 441. STUDY OF IMPACT OF WASTE MANAGEMENT TAX ON DOMESTIC MANUFACTURERS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a study on the effects of the tax imposed by section 4671 of the Internal Revenue Code of 1954 on the ability of domestic manufacturers to compete in international trade.

(b) REPORT.—Not later than July 1, 1986, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a). Such report shall include recommendations to minimize the trade impact of such tax and there shall be considered, in making such recommendations, a waste management tax export credit, an import equalization fee, and a maximum amount of tax with respect to hazardous waste generated by economically distressed industries.

SEC. 442. STUDY OF LEAD POISONING.

(a) IN GENERAL.—The Administrator of the Agency for Toxic Substances and Disease Registry shall, in consultation with the Administrator of the Environmental Protection Agency and other officials as appropriate, not later than March 1, 1986, submit to the Committee on Environment and Public Works, and the Committee on Finance, of the Senate and the Committee on Energy and Commerce, and the Committee on Ways and Means, of the House of Representatives, a report on the nature and extent of lead poisoning in children from environmental sources. Such report shall include, at a minimum, the following information:

(1) an estimate of the total number of children, arrayed according to Standard Metropolitan Statistical Area or other appropriate geographic unit, exposed to environmental sources of lead at concentrations sufficient to cause adverse health effects;

(2) an estimate of the total number of children exposed to environmental sources of lead arrayed according to source or source types;

(3) a statement of the long term consequences for public health of unabated exposures to environmental sources of lead, including (but not limited to) diminution in intelligence and increases in morbidity and mortality; and

(4) methods and alternatives available for reducing exposures of children to environmental sources of lead.

(b) EVALUATION OF SPECIFIC SITES.—Such report shall also score and evaluate specific sites at which children are known to be ex-

posed to environmental sources of lead due to releases, utilizing the Hazard Ranking system of the National Priorities List.

(c) AUTHORIZATION FROM SUPERFUND.—There are authorized to be appropriated from the Hazardous Substance Superfund such sums as may be necessary to prepare and submit the report required by this section.

PART V—COORDINATION WITH OTHER PROVISIONS OF THIS ACT

SEC. 451. COORDINATION.

Notwithstanding any provision of this Act not contained in this title, any provision of this Act (not contained in this title) which—

(1) imposes any tax, premium, or fee,

(2) establishes any trust fund, or

(3) authorizes amounts to be expended from any trust fund which are not also authorized by this title,

shall have no force or effect.

I. SUMMARY

A. Present Law

Hazardous Substance Response Trust Fund and Taxes

Prior to October 1, 1985, excise taxes were imposed on crude oil and certain chemicals, and revenues equivalent to these taxes were deposited into the Hazardous Substance Reponse Trust Fund ("Superfund"). These amounts are available for expenditures incurred in connection with releases or threats of releases of hazardous substances into the environment, including cleanup costs and the payment of damages for injury to or destruction of certain natural resources controlled by the Federal or State governments. These provisions were enacted in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), which established a comprehensive system of notification, emergency response, enforcement, and liability for hazardous spills (not including oil spills) and uncontrolled hazardous waste sites.

The crude oil tax of 0.79 cent per barrel was imposed on the receipt of crude oil at a U.S. refinery, the import of crude oil and petroleum products, and the use or export of domestically produced crude oil (if the tax had not already been paid).

The tax on chemicals was imposed on the sale or use of 42 specified organic and inorganic substances if they were produced in or imported into the United States. The taxable chemicals generally are chemicals that are hazardous or chemicals which may create hazardous products or wastes when used. The rates varied from 22 cents per ton to $4.87 per ton. (See Table 1 for a listing of these rates.)

The Superfund taxes terminated after September 30, 1985.

Post-closure Liability Trust Fund

Effective after September 30, 1983, an excise tax of $2.13 per dry weight ton was imposed on hazardous waste received at a qualified hazardous waste disposal facility and remaining at the facility after its closure. These tax receipts were intended to be deposited into the Post-closure Liability Trust Fund. This Trust Fund is to assume completely the liability, under any law, of owners and operators of closed hazardous waste disposal facilities which meet certain conditions. These provisions were enacted in CERCLA.

The authority to collect the tax on hazardous wastes expired after September 30, 1985.

B. Committee Amendment to H.R. 2817

Hazardous Substance Superfund and Taxes

Hazardous Substance Superfund

The committee amendment redesignates the "Hazardous Substance Response Trust Fund" as the "Hazardous Substance Superfund" and continues and expands the fund to enable it to carry out the general expanded program provided by H.R. 2817, as amended by the authorizing committees. Permitted uses of the Fund under this bill include the financing of certain emergency relief and health effect studies; certain toxicological profiles and hazard evaluation projects; various research, training, and other proposals associated with hazardous wastes; and an expanded cleanup program for hazardous waste sites. The committee amendment produces an estimated $10 billion in revenues to the Superfund (including interest, general revenues, and recoveries) for these purposes over fiscal years 1986 through 1990.

In addition to the taxes described below, appropriations of $180 million ($36 million per year) are authorized for fiscal years 1986 through 1990 from general revenues. The Superfund expenditure purposes are generally the same as under present law, with modifications to conform to the amendments made by the authorizing committees; however, no funds could be used for the payment of natural resource damage claims.

Superfund taxes

To finance the expanded Superfund, the committee amendment re-enacts and expands the prior law Superfund taxes and imposes new taxes, as follows:

Petroleum tax

The petroleum tax is re-enacted and imposed at a new 3.85-cents-per-barrel rate, effective November 1, 1985, through September 30, 1990.

Chemical feedstock tax

The chemical feedstock tax is re-enacted and imposed at modified rates, effective November 1, 1985, through September 30, 1990. The tax applies to prior law feedstocks, as well as to lead. Exceptions are added for exported feedstocks, for recycled nickel, chromium, cobalt, or lead, and for substances used to produce animal feed; the exception for coal-derived feedstock is repealed (the other prior law exceptions are retained). Tax rates would be indexed for inflation beginning in 1987. The committee amendment also includes clarifications regarding the tax treatment of xylene and of certain inventory exchanges.

Tax on imported chemical derivatives

The committee amendment imposes a tax, effective January 1, 1987 through September 30, 1990, on imported products produced from taxable chemical feedstocks or petroleum. The tax will be limited to products identified by Treasury regulations as having more than 50 percent of their value attributable to these materials using

the predominant method of production. The amount of tax will be equivalent to the tax which would have been imposed on the petroleum or feedstocks contained in the product; if this cannot be established, the tax will equal 5 percent of the value of the imported product.

Waste management tax

The committee amendment includes a new waste management tax designed to raise an estimated $1.5 billion of revenue for the Superfund over fiscal years 1986 through 1990. This tax is imposed on (1) the receipt of hazardous waste at a qualified hazardous waste management unit, (2) the receipt of hazardous waste for transport from the United States for the purpose of ocean disposal, and (3) the export of hazardous waste from the United States.

The waste management tax is imposed at three different rates depending on the method of waste management. The highest rate ($27 per ton in 1986) applies to land surface disposal units (i.e., landfills, surface impoundments, waste piles, and land treatment units). An intermediate rate ($2.70 per ton in 1986) applies to all qualified hazardous waste management units (including injection wells) other than land surface disposal units and waste water treatment units. The lowest rate ($0.15 per ton) applies to non-exempt waste water treatment units. Waste water treatment units generally are exempt from tax unless subject to a required but uncompleted corrective action.

A credit for tax paid with respect to hazardous waste is allowed for waste that is managed using a qualifying treatment, recycling, or incineration process, within 90 days of the event giving rise to tax. Qualified processes include (1) land-based incineration, (2) methods of treatment or disposal equivalent to land-based incineration, (3) recycling of batteries, and (4) reclamation of chemical fuels and solvents (without regard to the 90 day requirement). A process is treated as the equivalent of land-based incineration if it conforms to EPA performance standards and such standards require a destruction and removal efficiency at least equivalent to the standard applicable to incineration on the land.

The tax generally is imposed on the owner or operator of the qualified hazardous waste management unit, the person receiving hazardous waste for the purpose of ocean disposal, or the exporter of hazardous waste.

A back-up tax (at the rate applicable for land surface disposal) is imposed on the generator of hazardous waste if such waste is not received at a qualified hazardous waste management unit, received for ocean disposal, or exported, within 270 days of generation. Exemptions are provided for waste that is (1) discharged legally into a publicly owned treatment works, (2) generated by a small generator, or (3) specifically exempt from the waste management tax (by reason of receipt at a Federally owned facility or waste arising from certain remedial and removal actions). In addition, the Secretary of the Treasury may by regulation provide additional exemptions (or a reduced rate of tax) consistent with the purposes of the waste management tax.

The waste management tax is effective for waste received or exported after December 31, 1985 and before October 1, 1990. The

back-up tax is effective for waste generated after December 31, 1986 and before October 1, 1990.

The Treasury Department is directed to study the potential trade impacts of the waste management tax and to deliver a list of recommendations for minimizing any adverse impacts to the Committee on Ways and Means by July 1, 1986.

Superfund Excise Tax

Under the committee amendment, a new Superfund Excise Tax is imposed on the sale or lease of tangible personal property, in connection with a trade or business, by the manufacturer of the property. The tax rate is equal to 0.08 percent of the sales price of, or gross lease payments for, the property (i.e., $8 of tax per $10,000 of taxable amount). In the case of imports, the tax is imposed on the importer of tangible personal property based on the customs value (or, if no customs value is available, the fair market value) of the imported property plus customs duties. The tax is fully deductible against Federal income taxes.

A credit is allowed against the tax for purchases of tangible personal property which is allocable to the cost of manufactured goods. No tax is imposed on any manufacturer having $10 million or less of sales or lease receipts in any year. (In the case of imports, no tax is imposed on any shipment with a customs value, including duties, of less than $10,000.) Credits in excess of a manufacturer's tax liability generally may be carried over against later years' tax liabilities; however, excess credits may not be refunded.

In addition to the exemption for small manufacturers, items sold or leased by governmental units and by tax-exempt organizations (other than by unrelated trades or businesses) are exempt from the tax. Additionally, exported items are exempt from tax. Food products (whether for humans or animals), unprocessed agricultural or fishery products, unprocessed timber, and fertilizer products are also exempt from the tax.

For purposes of the tax, "manufacturer" is generally defined as it is for purposes of the Standard Industrial Classification ("SIC") Manual published by the Office of Management and Budget. Manufacturing includes mining and the production of raw materials generally. However, manufacturing subject to the tax does not include the storage or transportation of property (or services incidental thereto) or the incidental preparation of property.

"Tangible personal property" includes natural gas and other gaseous products and materials, but does not include electricity.

The Superfund Excise Tax is effective from January 1, 1986 through December 31, 1990. Returns for the tax are to be filed on an annual basis, using the taxpayer's taxable year for income tax purposes. The tax generally is required to be deposited quarterly.

Post-closure Liability Trust Fund and Tax

The Post-closure Liability Trust Fund, and the related tax on hazardous wastes, are repealed by the committee amendment, effective after September 30, 1983. Taxes paid under this provision are to be refunded without interest.

Leaking Underground Storage Tank Trust Fund and Tax

The committee amendment establishes a new trust fund, the Leaking Underground Storage Tank Trust Fund, under the Internal Revenue Code. The Trust Fund is to be used to pay for the costs of corrective actions involving leaks of petroleum and petroleum products from underground storage tanks.

The Trust Fund will be financed by (1) a 0.2 cent per gallon tax on gasoline, diesel, and special fuels, (2) interest on Trust Fund balances, and (3) amounts received from responsible parties. The tax on gasoline, diesel, and special fuels is imposed on the same fuels as are taxable under sections 4041 and 4081 of the Code. The tax is effective November 1, 1985, through September 30, 1990. Earlier termination would occur when receipts from the tax exceed $850 million.

Oil Spill Liability Trust Fund and Tax

The committee amendment establishes an Oil Spill Liability Trust Fund under the Internal Revenue Code. An excise tax of 1.3 cents per barrel (in addition to the Superfund petroleum tax) is imposed on domestic crude oil and imported petroleum products, and the proceeds of this tax are to be deposited in the Trust Fund. Amounts in the Trust Fund can be used to pay for costs incurred in cleaning up or preventing oil pollution from vessels or offshore facilities. The tax to fund the Oil Spill Liability Trust Fund is effective January 1, 1986, through September 30, 1990.

II. EXPLANATION OF COMMITTEE AMENDMENT TO H.R. 2817

A. Present Law

1. Hazardous Substance Response Trust Fund and Taxes

Hazardous Substance Response Trust Fund

The Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") (P.L. 96-510) established a comprehensive system of notification, emergency response, enforcement, and liability for hazardous substance spills and uncontrolled hazardous waste sites.

The Hazardous Substance Response Trust Fund ("Superfund") was established by CERCLA as a trust fund in the Treasury of the United States. Amounts in the Superfund are available for expenditures incurred under section 111 of CERCLA (as enacted) in connection with releases or threats of releases of hazardous substances into the environment. Allowable costs include: (1) costs of responding to the presence of hazardous substances on land or in the water or air, including removal of such substances and remedial action; (2) payment of claims for injury to, or destruction or loss of, natural resources belonging to or controlled by the Federal or State governments; and (3) certain costs related to response, including damage assessment, epidemiologic studies, and maintenance of emergency response forces.[2]

Under CERCLA, there were appropriated to the Superfund: (1) amounts equivalent to amounts received in the Treasury under Internal Revenue Code sections 4611 (pertaining to the petroleum tax) and 4661 (pertaining to the tax on certain feedstock chemicals); (2) amounts recovered from responsible parties on behalf of the Superfund under CERCLA; (3) penalties assessed under title I of CERCLA; and (4) punitive damages under section 107(c)(8) of CERCLA (pertaining to damages for failure to provide removal or remedial action upon order of the President). The petroleum and feedstock chemicals taxes expired after September 30, 1985.

In addition to these amounts, CERCLA authorized general revenue appropriations to the Superfund of $44 million per year for fiscal years 1981 through 1985 (i.e., an aggregate of $220 million) and, for 1985, an additional amount equal to so much of the aggregate authorized to be appropriated for 1981 through 1984 as had not been appropriated before October 1, 1984.

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[2] The Fund also may be used for payment of claims asserted and compensable but unsatisfied under section 311 of the Clean Water Act. All moneys recovered under section 311(b)(6)(B) of the Clean Water Act are appropriated to the Superfund. These claims and moneys involve certain costs arising before the date of enactment of CERCLA.

Not more than 15 percent of the Superfund receipts attributable to taxes and general revenue appropriations may be used for the payment of natural resource damage claims. CERCLA further provided that claims against the Superfund may be paid only out of the Fund. If, at any time, claims against the Fund exceed the balance available for payment of those claims, the claims are to be paid in full in the order in which they are finally determined.

The Superfund had authority under CERCLA to borrow for the purposes of paying response costs in connection with a catastrophic spill or paying natural resource damage claims. Outstanding advances at any time could not exceed estimated tax revenues for the succeeding 12 months; advances for paying natural resource damage claims could not exceed 15 percent of such revenues. All advances were required to be repaid by September 30, 1985.

The Superfund is managed by the Secretary of the Treasury, who is required to report annually to Congress on the financial condition and operations of the Fund.

Petroleum tax

Under CERCLA, an excise tax (the "petroleum tax") of 0.79 cent per barrel was imposed on domestic crude oil and on petroleum products (including crude oil) entering the United States for consumption, use, or warehousing (sec. 4611 of the Code). The tax on domestic crude oil was imposed on the operator of any United States refinery receiving such crude oil, while the tax on imported petroleum products was imposed on the person entering the product into the United States for consumption, use, or warehousing. If crude oil was used in, or exported from, the United States before imposition of the petroleum tax, the tax was imposed on the user or exporter of the oil.

Domestic crude oil subject to tax included crude oil condensate and natural gasoline, but not other natural gas liquids. Taxable crude oil did not include oil used for extraction purposes on the premises from which it was produced, such as for powerhouse fuel or for reinjection as part of a tertiary recovery process. In addition, the term crude oil did not include synthetic petroleum (e.g., shale oil, liquids from coal, tar sands, biomass, or refined oil).

Petroleum products which were subject to tax upon being entered into the United States included crude oil, crude oil condensate, natural and refined gasoline, refined and residual oil, and any other hydrocarbon product derived from crude oil or natural gasoline which enters the United States in liquid form. For purposes of determining whether crude oil or petroleum products (and chemicals subject to the feedstock tax) had been produced in, entered into, or exported from the United States, the term "United States" was defined to mean the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any possession of the United States. The term "United States" also included the Outer Continental Shelf areas and foreign trade zones located within the United States. There was no exception for bonded petroleum products. Revenues from the petroleum tax were not paid to Puerto Rico or the Virgin Islands under the cover over provisions of section 7652 of the Code.

It was specified that the petroleum tax was to be imposed only once with respect to any petroleum product. Thus, anyone otherwise liable for the tax could avoid payment by establishing that the tax already had been imposed with respect to that product.

Amounts equivalent to the revenues from the petroleum tax were deposited in the Superfund.

The petroleum tax expired after September 30, 1985.[3]

Tax on chemical feedstocks

In addition to the petroleum tax, CERCLA imposed an excise tax (the "chemical feedstocks tax") on the sale or use of 42 specified chemical feedstocks by the manufacturer, producer, or importer thereof (sec. 4661 of the Code). These feedstocks generally are hazardous substances or may create hazardous products or wastes when used. The tax was imposed on feedstocks manufactured in the United States or entered into the United States for consumption, use, or warehousing. The tax rates were specified per ton of taxable chemical, and varied from 22 cents to $4.87 per ton. In the case of a taxable chemical which is a gas (e.g., methane), the tax was imposed on the number of cubic feet of such gas which is equivalent to 2,000 pounds on the basis of molecular weight. (See Table 1, below, for a list of taxable chemical feedstocks and applicable tax rates.)

The tax rates on petroleum and chemical feedstocks were set to achieve a $1.6 billion Superfund program over 5 years, of which $1.38 billion was to be derived from taxes and the remainder from general revenues. Sixty-five percent of the tax burden was to be allocated to organic ("petro") chemicals, 20 percent to inorganic chemicals, and 15 percent to petroleum. This allocation was based on the respective proportions of wastes (derived from these chemicals) found in hazardous waste sites (based on data available in 1980). In addition, the chemical feedstock tax rates were limited to the lesser of (1) two percent of wholesale price (based on data available in 1980), or (2) a cap equal to $4.87 per ton for organic chemicals and $4.45 per ton for inorganic chemicals, with certain chemicals being taxed at lower rates than would be arrived at under this formula.

Prior law provided six exemptions from the tax on feedstocks. First, in the case of butane and methane, the tax was not imposed if those substances were used as a fuel. (If those substances were used other than as a fuel, for purposes of the tax, the person so using them was treated as the manufacturer.) Second, an exemption was provided for nitric acid, sulfuric acid and ammonia (and

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[3] Prior law also contained provisions which would have suspended or terminated the tax had revenues accumulated faster than a specified rate. Under one such provision, if on September 30, 1983, or September 30, 1984, (1) the unobligated balance in the Superfund had exceeded $900 million, and (2) the Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, had determined that such unobligated balance would exceed $500 million on September 30 of the following year (if no tax was imposed under section 4611 or section 4661 of the Code during the calendar year following the first date referred to above), then no tax would have been imposed during the first calendar year beginning after the first date referred to above. (As of September 30, 1984, the unobligated balance in the Superfund was $295.1 million.) Further, the authority to collect the tax would have terminated if cumulative receipts from the petroleum and chemical taxes had reached $1.38 billion before September 30, 1985 (sec. 303 of CERCLA). (As of September 30, 1984, cumulative receipts from these taxes amounted to $0.863 billion.)

methane used to produce ammonia) used in the manufacture or production of fertilizer or directly applied as fertilizer. Third, an exemption was provided for sulfuric acid produced solely as a by-product of (and on the same site as) air pollution control equipment. Fourth, any taxable chemical was exempt to the extent it was derived from coal. Fifth, an exemption was provided for otherwise taxable organic chemicals (i.e., acetylene, benzene, butane, butylene, butadiene, ethylene, methane, naphtalene, propylene, toluene, and xylene) which were used for the manufacture or production of motor fuel, diesel fuel, aviation fuel, or jet fuel. (The petroleum tax continued to apply to domestic crude oil or imported petroleum products used for these purposes.) Finally, the transitory existence of cupric sulfate, cupric oxide, cuprous oxide, zinc chloride, zinc sulfate, barium sulfide or lead oxide during a metal refining process was not subject to tax if the compound existed in the process of converting or refining non-taxable metal ores or compounds into other (or more pure) non-taxable compounds. (If a substance was removed in the refining process, tax was imposed even if the substance was later reintroduced to the refining process.) These last two exceptions were added by the Tax Reform Act of 1984, but were effective as if enacted as part of CERCLA.

Under prior law, if a taxpayer used a taxable chemical prior to any sale, the tax was imposed as if the chemical had been sold. When a taxable chemical was used to manufacture or produce a second taxable chemical, an amount equal to the tax paid on the first chemical was allowed as a credit or refund (without interest) to the manufacturer or producer of the second chemical (but not in an amount exceeding the tax imposed on the second chemical). Thus, the imposition of tax more than once on the same substance was avoided.

Amounts equivalent to the revenues from the tax on chemical feedstocks were deposited in the Superfund.

The tax on chemical feedstocks expired, together with the petroleum tax, after September 30, 1985.[4]

2. Post-closure Liability Trust Fund and Tax

Post-closure Liability Trust Fund

In addition to the Superfund, CERCLA established the Post-closure Liability Trust Fund in the United States Treasury. The Post-closure Liability Trust Fund is to assume completely the liability, under any law (including the liability provisions of CERCLA), of owners and operators of hazardous waste disposal facilities granted permits and properly closed under subtitle C of the Resource Conservation and Recovery Act ("RCRA") (Title II of the Solid Waste Disposal Act).[5]

This transfer of liability to the Trust Fund may take place after (1) the owner and operator of the facility has complied with the requirements under RCRA which may affect the performance of the

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[4] The tax would have been terminated suspended or terminated earlier than September 30, 1985, under the same conditions as the petroleum tax. (See footnote 3.)

[5] RCRA provides for the regulation and control of operating hazardous waste disposal facilities, as well as the transportation, storage, and treatment of these wastes. Permits generally are required under RCRA for hazardous waste treatment, storage, and disposal facilities.

facility after closure, (2) the facility has been closed in accordance with the regulations and the conditions of the permit, and (3) the facility has been monitored (as required by the regulations and permit) for a period not to exceed 5 years after closure to demonstrate that there is no substantial likelihood that any migration offsite or release from confinement of any hazardous substance or other risk to public health or welfare will occur (sec. 107(k) of CERCLA). The transfer of liability is to be effective 90 days after the owner or operator of the facility notifies the Administrator of the Environmental Protection Agency (and the State, if it has an authorized program) that the required conditions have been satisfied. No liabilities have yet been transferred to the Post-closure Trust Fund under present law.

In addition to payment of damages and cleanup expenses for such sites, the Trust Fund also may be used to pay costs of monitoring, care, and maintenance of a site incurred by other persons, after the period of monitoring required by RCRA, for facilities meeting the applicable transfer of liability requirements.

The Post-closure Liability Trust Fund does not assume the legal liability of waste generators or transporters.

As in the case of the Superfund, claims against the Post-closure Liability Trust Fund may be paid only out of this Trust Fund. If, at any time, claims against this Trust Fund exceed the balance available for payment of those claims, then the claims are to be paid in full in the order in which they are finally determined.

The Post-closure Liability Trust Fund is subject to the same administrative provisions as the Superfund, including the right to borrow limited amounts from the Treasury as repayable advances (not to exceed $200 million).

Tax on hazardous wastes

Prior law (sec. 4681 of the Code) imposed an excise tax (the "post-closure tax") of $2.13 per dry weight ton on the receipt of hazardous waste at a qualified hazardous waste disposal facility. The tax applied only to hazardous waste that will remain at the facility after the facility is closed. The tax was imposed on the owner or operator of the qualified hazardous waste disposal facility. It was intended that amounts equivalent to the revenues from this tax be deposited into the Post-closure Liability Trust Fund.

For purposes of the post-closure tax, the term hazardous waste meant any waste (1) having the characteristics identified under section 3001 of the Solid Waste Disposal Act, as in effect on December 11, 1980 (other than waste the regulation of which had been suspended by Congress on that date), and (2) that was subject to reporting and recordkeeping requirements under the Solid Waste Disposal Act as in effect on that date. Qualified hazardous waste disposal facilities were facilities that have received a permit or have been accorded interim status under the Solid Waste Disposal Act.

The post-closure tax applied to the receipt of hazardous waste after September 30, 1983.

The authority to collect the post-closure tax terminated after September 30, 1985 (sec. 303 of CERCLA).

3. Statutory Provisions Relating to Oil Spills

Present law does not provide a comprehensive trust fund for purposes of oil spill liability and compensation; however, funds relating to oil spills are established under the following statutes.

Federal Water Pollution Control Act ("Clean Water Act"), Section 311

Section 311 of the Federal Water Pollution Control Act (33 U.S.C. sec. 1321) established a $35 million revolving fund maintained by fines, penalties, and appropriations of general revenue. The fund may be used for cleanup of releases of oil into navigable waters and restoration of accompanying natural resources. The Act also established strict joint and several liability pertaining to responsibility for cleanup expenses, and authorized the fund to seek reimbursement from parties who release oil or designated hazardous substances into navigable waters.

The Trans-Alaska Pipeline Authorization Act ("TAPAA")

The TAPAA (43 U.S.C. sec. 1651 *et seq.*) established a $100 million Trans-Alaska Pipeline Liability Fund, and required the pipeline system ("TAPS") to collect and deposit a $.05 charge for each barrel of oil passing through TAPS. The Liability Fund is a quasi-public entity, and the Fund's revenues are intended to be used to compensate for damages, including cleanup, restoration of natural resources, and economic loss, resulting from spills from vessels carrying TAPS oil. Owners and operators are strictly liable, and the fund may seek to recover its expenses from responsible parties. Because of a $100 million ceiling to which the Fund is subject, the fee is to be suspended each time that maximum is achieved and maintained.

Outer Continental Shelf Amendments of 1978

A $200 million Offshore Oil Pollution Compensation Fund was established in the Treasury by the 1978 amendments to the Outer Continental Shelf Lands Act (43 U.S.C. sec. 1812). This Fund consists of monies generated by a fee of not more than $.03 a barrel imposed on owners of oil from the Outer Continental Shelf. (The fee may be reduced when the balance in the Fund reaches the $200 million cap.) The Fund may be used to compensate for damages, including cleanup, property damage and loss of income and tax revenue, resulting from spills of oil produced on the Outer Continental Shelf. Liability and financial responsibility requirements for facilities and vessels are specified, and the Fund may seek to recover its expenses from responsible parties. The fee is collected by the Internal Revenue Service; however, collection of the fee is not subject to the generally applicable IRS enforcement powers.

Deep Water Port Act of 1974

The Deep Water Port Act of 1974 established a $100 million fund to compensate for damages resulting from oil pollution from vessels or facilities engaged in specified deepwater port operations (33 U.S.C. sec. 1517). This fund is maintained by a $.02 a barrel fee as-

sessed on oil loaded at a deepwater port. A spiller of deep water port oil is strictly liable for resulting damages.

Under the Deep Water Port Act Amendments of 1984 (P.L. 98-419), collection of the fee was suspended; however, collection could be reinstated by the Secretary of Transportation under certain circumstances.

B. Reasons for Change

1. Hazardous Substance Response Trust Fund and Taxes

Expansion of Superfund program

In 1980, Congress created a major Federal program to clean the worst abandoned hazardous waste sites in the country by enacting the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"). CERCLA provided a 5-year, $1.6 billion cleanup program financed by $0.22 billion of general revenues and an estimated $1.38 billion of excise taxes on petroleum and specified chemical feedstocks. It was intended that the Hazardous Substance Response Trust Fund ("Superfund") would be supplemented by amounts collected from enforcement and cost recovery actions against responsible parties, and ultimately would become self-financing. Under CERCLA, the petroleum and chemical feedstock excise taxes were imposed through September 30, 1985.

It is now clear that the initial Superfund program is not adequate to achieve the goals of the 1980 Act. Additionally, Title I of H.R. 2817, as reported by other committees, would mandate stringent cleanup standards, provide for response to releases of petroleum and petroleum products from underground storage tanks, and require certain health effect, toxicological profile, and hazard evaluation studies, as well as various research and training programs. As reported by the Committee on Public Works and Transportation, the bill would also establish a mandatory cleanup schedule for hazardous waste sites. H.R. 2817 further allows citizens to sue in Federal court to enforce requirements under the bill and to seek the performance of nondiscretionary duties by the EPA. These provisions substantially increase the financial requirements of the Superfund. The committee has reported an amendment to the revenue title (Title IV) of H.R. 2817 providing an estimated $10 billion of funding (including interest, general revenues, and recoveries) which, in the committee's judgment, will be necessary to finance the cost of carrying out this expanded Superfund program through fiscal year 1990.

In addressing the financing of the Superfund program, the committee also examined the uses of the Fund. Under current law, fund receipts may be used for the payment of natural resource damage claims filed with respect to State and Federal property. The committee decided that no portion of Superfund revenues should be used for the payment of such claims. Superfund revenues used to pay damage claims are diverted from the cleanup of the nation's worst abandoned hazardous waste sites, which is the primary objective of the Superfund program. Also, the committee was concerned that the Superfund might not be able to satisfy current and future damage claims.

In financing the substantial increase in the Superfund program, the committee sought to broaden the tax base; to raise revenues in an equitable manner; to minimize adverse trade and other economic effects; and to limit the impact of the program on the Federal deficit.

General revenue appropriations

Under the committee amendment, the general revenue contribution to the Superfund is decreased, to $0.18 billion over the fiscal year 1986–1990 period. This approach will limit the impact of the Superfund on the budget deficits projected for those years. The committee recognized the societal nature of the hazardous waste problem, and the appropriateness of a broad-based financing source by imposing a new Superfund excise tax on manufacturers (discussed below).

Petroleum and chemical feedstocks taxes; tax on imported derivatives

The committee agreed to increase the prior law petroleum tax from 0.79 cents per barrel to 3.85 cents per barrel.

The committee amendment also increases modestly the contribution of the chemical feedstock tax to Superfund revenues. This is accomplished by adjusting the tax rates for certain substances and, beginning in 1987, by indexing the tax rates to the producer price index for organic or inorganic chemicals (as appropriate). Indexing of tax rates will ensure that future changes in chemical prices do not change the relative tax burden (e.g., between organic and inorganic chemicals) over the reauthorization period. Because lead compounds have contributed to a substantial number of Superfund sites, the committee amendment also adds lead to the list of taxable feedstock chemicals.

Under prior law, otherwise taxable feedstocks were exempt to the extent that they were derived from coal. The committee repealed this exmption in order to more equitably allocate the burden of the feedstock tax.

While generally believing that the feedstock tax should be allocated without regard to production methods, the committee believes that the recycling of metals—as opposed to land disposal—represents an important environmental objective. The committee amendment therefore exempts domestically recycled nickel, chromium, cobalt, and lead from the feedstock tax. (Imports of recycled metals are not exempt.) This amendment has the effect of encouraging recycling over both imported and primary domestic production of the relevant metals. In addition to recycling, the committee agreed to exempt from the feedstock tax substances used (directly or indirectly) to produce animal feed; this parallels a prior law exemption for fertilizer production and will encourage the use of otherwise taxable chemicals to produce animal feed.

One reason for not increasing further the feedstock tax was the committee's concern that higher rates could have damaging trade effects. Concern for these effects also prompted the committee to make two specific adjustments to the tax. First, the committee agreed to exempt exports of taxable chemicals from the feedstock tax. Together with the existing tax on imported feedstocks, this

amendment will remove the negative trade bias in cases where taxable feedstocks are traded with other countries.

Second, the committee was concerned that the petroleum and feedstock taxes provides an unintended advantage for imported products that are manufactured using domestically taxable feedstock chemicals. To limit these trade advantages, the committee agreed to impose a tax on imported products which are directly and substantially produced from taxable feedstock chemicals or petroleum products. To simplify administration, the tax will be limited to products which are specifically identified by the Treasury Department as having more than one-half of their value derived from taxable feedstocks or petroleum products. The Treasury is allowed a year (until January 1, 1987) to develop its initial list of taxable imports. The committee believes that this approach will equalize the trade burden with respect to products substantially derived from on taxable chemicals, while avoiding undue administrative and enforcement problems.

Waste management tax

The petroleum and feedstock taxes constituted the primary revenue sources under the original Superfund program. These taxes were justified on the ground that most hazardous waste found at abandoned disposal sites is derived from petroleum and the 42 original feedstock chemicals. However, the committee believes that it is unfair to tax only the producers of certain chemicals found in hazardous waste, and not the generators and disposers of such hazardous waste. To remedy this inequity, the committee adopted a new tax on the treatment, storage, and disposal of hazardous waste to contribute to the financing of the Superfund program.

In addition to the equity argument for a waste management tax, the committee believes that the tax will create an incentive to better manage hazardous waste. The bill would tax land surface disposal at a higher rate than other types of waste management. Waste water treatment units, incinerators, and treatment processes with a destruction efficiency equivalent to land-based incineration generally would be exempt (or eligible for a credit) unless subject to a required corrective action order. The committee believes that these tax rate differentials will encourage desirable waste management practices which will reduce the likelihood of creating new toxic dump sites.

The committee is aware that the imposition of the waste management tax may, in certain cases, adversely affect domestic companies that compete with manufacturers located outside of the United States. Consequently, the committee directed the Treasury Department to analyze these potential competitive problems and make recommendations for their mitigation by July 1, 1986.

Superfund Excise Tax

The committee is of the view that the cleanup of abandoned hazardous waste sites is a broad societal problem extending beyond the chemical and petroleum industries. Thus, the committee amendment includes a new excise tax on all manufacturing sectors of the economy.

The Superfund Excise Tax ("SET") on manufacturers is structured as an indirect tax (i.e., a tax on goods rather than on persons). Under the General Agreement on Tariffs and Trade ("GATT"), to which the United States is a signatory, indirect taxes generally may be imposed according to the "destination principle," (i.e., rebated on export and imposed on imports). By structuring the SET as a destination-principle tax, the committee sought to minimize the adverse effects of the tax on the U.S. merchandise trade balance.

The imposition of the Superfund Excise Tax is limited to importers, manufacturers, and producers (including mining). The Superfund Excise Tax is limited to manufacturers and producers with over $10 million of sales and/or lease income. To further reduce administration and compliance costs, Superfund Excise Tax liability generally is computed with reference to manufacturers' inventory costs, as computed for income tax purposes, rather than on the basis of tax payments shown on special invoices.

Transfer of Superfund to Internal Revenue Code

The committee further decided to relocate the Superfund, together with the new Leaking Underground Storage Tank and Oil Spill Liability Trust Funds (discussed below), under the Trust Fund Code of the Internal Revenue Code (Chapter 98); this is consistent with recent congressional actions regarding trust funds, but does not affect jurisdiction over these funds.

2. Post-closure Liability Trust Fund and Tax

The committee amendment repeals, effective October 1, 1983, the Post-closure Liability Trust Fund and does not extend the post-closure tax on hazardous waste enacted in 1980. Amounts previously paid as taxes would be refunded to the original taxpayers.

The Post-closure Fund is a form of Federal insurance for qualifying hazardous waste facilities. The committee was concerned that the liability that ultimately could be transferred to the Federal Government under this provision is unlimited. Such liability is governed in part by State and local laws, which could change, and which could cover such items as medical expenses, pain and suffering, and income losses. Thus, the amount of claims against the Post-closure Fund could be extremely large, and there is concern that the Post-closure Fund would have inadequate resources to compensate the victims of even a few releases. This could necessitate a large tax increase or use of general revenues to pay these claims.

The committee also was concerned that the transfer of liability to the government may diminish incentives to construct durable disposal facilities. The Post-closure Fund appears to subsidize hazardous waste disposal relative to treatment facilities. Further, because storage facilities do not pay the tax, a storage facility which switched its status to that of a disposal facility just before closure could transfer liability to the Post-closure Fund without ever having paid the tax. Other such mismatches between the tax and eligibility for transfer of liability are possible; for example, a facility with an interim status permit may be required to pay the dispos-

al tax but, if it never receives a final RCRA permit, would never be able to transfer liability to the Fund. In addition, the Post-closure Fund does not relieve waste generators and transporters from legal liability for damages caused by wastes deposited at a hazardous waste disposal facility.

Finally, under current law, the Federal Government can be sued by any party that claims an injury as a result of exposure to a release from a disposal facility for which the Federal Government is liable. The future cost of litigation under this provision could be high.

3. Leaking Underground Storage Tank Trust Fund and Tax

Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), funds from the Superfund generally are not available for the cost of cleaning releases of petroleum and petroleum products. The committee believes that the threat to human health and the environment resulting from releases of petroleum and petroleum products from underground storage tanks is a serious problem that cannot adequately be resolved by responsible parties alone. Accordingly, the committee amendment establishes a separate trust fund, the Leaking Underground Storage Tank Trust Fund, to pay for the costs of corrective actions with respect to leaking underground storage tanks where no solvent owner or operator can be found, or the owner or operator refuses or is unable to comply properly with a corrective action order.

The Trust Fund would be financed primarily by a 0.2 cent per gallon tax on gasoline, diesel, and special motor fuels. The tax is based on motor fuels since most releases of petroleum products from underground storage tanks involve these fuels.

4. Oil Spill Liability Trust Fund and Tax

The committee believes that it is important to establish a readily available source of funds to clean up pollution from oil spills from vessels or offshore facilities. The committee, however, does not believe that the Federal Government should have to bear these costs. These cleanup costs generally should be imposed upon the party responsible for them or, alternatively, upon the class of persons who create the risk of these spills.

To accomplish these goals, the committee decided that it is appropriate to impose an excise tax of 1.3 cents per barrel on domestic crude oil and imported petroleum products. The committee also has decided that revenues from this tax should be earmarked for inclusion in a new trust fund for payments of oil spill cleanup costs.

Under the committee amendment, expenditures from the Oil Spill Liability Trust Fund are limited specifically to cleanup and related costs. This is consistent with the expenditure purposes of the Superfund, which (under the committee amendment) do not include compensation of damage claims for natural resources, property loss, lost wages, or reduced State and local tax revenues. The committee was concerned that compensation of natural resource and other damage claims (as in the bill as approved by other com-

mittees) could result in potentially unlimited claims against the Fund. For example, the ALVENUS spill off the Louisiana coast in 1984 cost the spiller less than $5 million in cleanup costs, yet generated damage claims of $100 million. Several claims of this magnitude could overwhelm the proposed $300 million Fund. Although Congress would not be required to pay claims in excess of Fund balances, or $200 million per incident, there would be considerable pressure from unsatisfied claimants to expand the size of the Fund. Thus, the Fund could become a potentially open-ended entitlements program.

The committee was further concerned that if damages for economic losses were allowed, the Fund would, in effect, establish a separate governmental unemployment compensation program for the fishing and tourist industries—both owners and employees—on much more favorable terms than such compensation is provided to other comparable groups of U.S. citizens. Other individuals lose wages, profits, and property values, on account of circumstances beyond their control, but generally are not entitled to governmental compensation. The provision to compensate State and local governments for loss of tax revenue singles out certain governments for a special revenue sharing program on very favorable terms.

C. Explanation of Provisions

1. The Hazardous Substance Response Taxes and Trust Fund

a. Hazardous Substance Superfund

The committee amendment redesignates the "Hazardous Substance Response Trust Fund" as the "Hazardous Substance Superfund" and continues and expands the Superfund by allocating to the fund amounts equivalent to revenues derived from expanded taxes on petroleum and chemical feedstocks; a new waste management tax; a new Superfund excise tax on manufacturers; and a tax (beginning in 1987) on imported substances derived from taxable chemical feedstocks or petroleum. The bill also authorizes general revenue appropriations to the Fund of an additional $36 million for each of fiscal years 1986–1990 (an aggregate of $180 million), plus, for each such fiscal year, an amount equal to the aggregate amount authorized but not yet appropriated for prior years. Other amounts allocated to the Fund under present law (including penalties, punitive damages, amounts recovered on behalf of the fund, and interest on Trust Fund balances) are not affected by the committee amendment. Superfund revenues from taxes, general revenues, interest on Fund balances, and recoveries are estimated to total $10 billion over the reauthorization period.

Under the committee amendment, the expenditure purposes of the Superfund generally are amended to conform to the expanded list of Superfund activities under section 111 of CERCLA, as amended by H.R. 2817 as reported by the Committee on Energy and Commerce and the Committee on Public Works and Transportation.[6] These include: emergency relief and health effects studies,

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[6] See H. Rep. No. 99-253, Part 1, accompanying H.R. 2817, 99th Cong., 1st Sess. (August 1, 1985) (Committee on Energy and Commerce).

including health assessment studies regarding individual facilities; preparing toxicological profiles of certain hazardous substances; costs of a hazardous substance research and training program (not to exceed $113 million over the 5-year period); research and development costs associated with alternative remedial technologies (not to exceed $125 million per year); grants for university hazardous waste research centers (not to exceed $10 million per year); grants to nonprofit organizations for the training of hazardous waste workers (not exceeding $10 million per year); enforcement and oversight costs associated with certain private remedial activities resulting from consent orders or settlement agreements; grants for technical assistance to individuals affected by hazardous substance releases; and evaluation of potential hazards posed by facilities pursuant to petitions filed by any person. Expenditure purposes authorized under section 111(a)(1), (2), (4), or (5) of CERCLA as in effect on the date of enactment of the committee amendment, or later authorized expenditures for the same general purposes are included. However, fund amounts would no longer be available for the payment of damage claims (including the costs of damage assessment) for injury to, or destruction or loss of, natural resources owned or controlled by the Federal or State governments as a result of a release or threat of release of a hazardous substance, as presently authorized under section 111(a)(3) of CERCLA.

The committee amendment also specifies that no Superfund monies are to be available for a transfer of hazardous substances between facilities which could not take place except for section 121(i) of H.R. 2817.

The committee amendment generally continues the present law provisions regarding administration of the Superfund, and authorizes the Fund to borrow amounts from the Treasury as repayable advances for any authorized fund purpose. Any such advances are required to be repaid before September 30, 1990. The committee amendment also transfers the trust fund provisions to the Internal Revenue Code.

The amendments to the Superfund trust fund provisions are effective on November 1, 1985. Special effective date provisions apply for certain of the Superfund taxes (as described below).

b. Excise tax on petroleum

The committee amendment re-enacts the prior law environmental excise tax on petroleum and increases the tax from 0.79 cents per barrel tax to 3.85 cents per barrel. This tax is to apply from November 1, 1985, through September 30, 1990. Thus, the committee amendment repeals the termination provisions of present law (sec. 4611(d)), which would have terminated the tax if the unobligated balance in the Superfund exceeded specified amounts, and section 303 of CERCLA, which provided for termination of the environmental excise taxes when aggregate tax collections exceed $1.38 billion.

In addition to re-enacting the petroleum tax as a Superfund financing source, the committee amendment imposes a new 1.3-cent per barrel tax on crude oil and imported petroleum products to finance the Oil Spill Liability Trust Fund (discussed below).

c. Excise tax on chemical feedstocks

Tax rates

The committee amendment re-enacts and expands the prior law environmental excise tax on chemical feedstocks. Specifically, the committee amendment provides that specified organic and inorganic substances sold by the manufacturer, producer, or importer are to be taxed in accordance with the following table (Table 1).

Table 1.—Comparison of Chemical Feedstock Tax Rates Under Prior Law and the Committee Amendment

[Dollars per ton]

Substance	Prior law	Committee amendment, 1985–86
Organic Substances:		
Acetylene	4.87	4.74
Benzene	4.87	4.74
Butadiene	4.87	4.74
Butane	4.87	4.74
Butylene	4.87	4.74
Ethylene	4.87	4.74
Methane	3.44	3.35
Naphthalene	4.87	4.74
Propylene	4.87	4.74
Toluene	4.87	4.74
Xylene	4.87	9.68
Inorganic Substances:		
Ammonia	2.64	3.52
Antimony	4.45	4.33
Antimony trioxide	3.75	4.13
Arsenic	4.45	4.33
Arsenic trioxide	3.41	3.92
Barium sulfide	2.30	3.49
Bromine	4.45	4.33
Cadmium	4.45	4.33
Chlorine	2.70	3.40
Chromite	1.52	1.48
Chromium	4.45	4.33
Cobalt	4.45	4.33
Cupric oxide	3.59	4.00
Cupric sulfate	1.87	3.32
Cuprous oxide	3.97	4.15
Hydrochloric acid	0.29	0.83
Hydrogen fluoride	4.23	4.25
Lead	0.00	2.47
Lead oxide	4.14	4.21
Mercury	4.45	4.33
Nickel	4.45	4.33
Nitric acid	0.24	2.36
Phosphorus	4.45	4.33

Table 1.—Comparison of Chemical Feedstock Tax Rates Under Prior Law and the Committee Amendment—Continued

[Dollars per ton]

Substance	Prior law	Committee amendment, 1985–86
Potassium dichromate	1.69	3.25
Potassium hydroxide	0.22	2.67
Sodium dichromate	1.87	3.32
Sodium hydroxide	0.28	2.27
Stannic chloride	2.12	3.42
Stannous chloride	2.85	3.70
Sulfuric acid	0.26	0.70
Zinc chloride	2.22	3.46
Zinc sulfate	1.90	3.33

Beginning in calendar year 1987, the rates specified in Table 1 are to be adjusted for inflation. In the case of organic substances, the inflation adjustment for any year is to be the percentage by which the average producer price index for basic organic chemicals, published by the Bureau of Labor Statistics, for the 12-month period ending in September of the preceding year, exceeds the comparable average of the index for the 12 months ending in September 1985. In the case of inorganic substances, the inflation adjustment for any year is to be the percentage by which the average producer price index for basic inorganic chemicals for the 12-month period ending in the preceding September exceeds the comparable average for the 12 months ending in September 1985. Tax rates would not be reduced below the levels shown in Table 1, even if the producer price index declines relative to 1985; however, if this occurs, the committee expects to consider whether such a reduction is appropriate. It is anticipated that the Treasury Department will publish annual tables setting forth increased tax rates resulting from the inflation adjustment.

Chemical feedstock tax rates generally were determined by a four stage process: first, price caps were established for each feedstock; second, the revenue increase at these caps over present law rates was computed (including the effect of indexing); third, the projected revenue increase for each feedstock was reduced proportionately so as to achieve a revenue target of $1.5 billion over the reauthorization period; last, initial tax rates were adjusted so as to achieve the desired revenue increase from each chemical (including the effect of indexing). The feestock price caps used in the first stage of this procedure were determined as the lower of (1) 2 percent of current estimated wholesale price, and (2) the dollar caps in present law ($4.87 per ton for organic substances and $4.45 per ton for inorganic substances).

The committee has addressed a technical problem under prior law concerning the appropriate point at which to levy the tax on the production of xylene. Under the committee amendment, for

purposes of this tax, xylene includes separated isomers of xylene only in the case of imported or exported xylene. The committee adopted this rule because it understands that the separated isomers of xylene (meta-xylene, ortho-xylene, and para-xylene) are isolated from a mixed stream of xylenes produced in a reformation process. Accordingly, separated isomers will have been previously taxed (when the mixed stream of xylene is used in the reformation process) except when those separated isomers are imported; thus, the committee expects that no future loss of revenue will occur as a result of this provision. The committee amendment also repeals the prior law tax on xylene for periods before October 1, 1985. Manufacturers, producers, and importers of xylene who paid the tax under prior law will be permitted to obtain a refund of those taxes together with interest. To offset the resulting revenue loss, the tax rate on xylene in Table 1 incorporates an increase over the rates that would otherwise apply, in order to recapture the tax liability that had been expected under prior law for periods before October 1, 1985.

The committee amendment also includes a special rule with respect to nitric acid consumed by the manufacturer in the production of nitrocellulose. Under this rule, nitric acid used in this manner will continue to be taxed at not more than the prior law rate (24 cents per ton) applicable to that substance.

Exemptions

The committee amendment repeals the prior law exemption for coal-derived feedstocks. The remaining present law exemptions are retained. A conforming amendment is made to the exemption for feedstocks that have a transitory existence during a metal refining or smelting process, to provide that this exception also applies to lead.

In addition to prior law exceptions, the committee amendment provides three new exceptions to the chemical feedstocks tax:

Exports of taxable chemicals.—The committee amendment provides that the tax on chemical feedstocks does not apply to feedstocks that are exported from the United States. In particular, any feedstock that is sold by the manufacturer or producer for export, or for resale to a second purchaser for export is exempt from tax.[7] If the purchaser cannot certify in advance that a feedstock will be exported, or if a tax has otherwise been paid on the exported feedstock, the person who paid the tax could claim a refund or credit (without interest) for the amount of the tax previously paid. Such person would be required to pay the amount refunded or credited to the exporter, or to obtain the exporter's written consent to his receiving the credit or refund. The Treasury is authorized to prescribe necessary regulations for administering these provisions.

Substances used to produce animal feed.—An exemption from the feedstock tax is provided for nitric acid, sulfuric acid, or ammonia (or methane used to produce ammonia) used in a qualified animal feed use by the manufacturer, producer, or importer, or sold for use (or for resale for ultimate use) in a qualified animal feed use.

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[7] Rules similar to the rules of section 4221(b) (regarding proof of export for excise tax purposes) would apply for this purpose.

Qualified animal feed use means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements. Under Treasury regulations, if tax is paid and a qualifying substance is subsequently used in a qualified animal feed use, the person so using the substance is entitled to a credit or refund (without interest) of the tax paid. Conversely, if an exemption is allowed and a substance is subsequently sold or used for a non-animal feed purpose, the person so selling or using the substance is to be subject to tax as if such person had manufactured the substance.

Certain recycled metals.—An exemption is provided under the committee amendment for nickel, chromium, cobalt, or lead which is diverted or recovered in the United States from solid waste (as defined under section 1004 of the Solid Waste Disposal Act) as part of a recycling process (and not as part of the original manufacturing or production process). The exemption does not apply to metals which are diverted recovered from the byproduct, coproduct, or other waste of a metal refining, smelting, or other extraction process.

The recycling exemption does not apply for any period during which the taxpayer has failed to complete a corrective action required by EPA (or an authorized State program) under CERCLA or the Solid Waste Disposal Act. The exemption also does not apply to taxable substances which are recycled outside the United States.

For purposes of the credit for previously taxed chemical feedstocks, recycled metals that are exempt under this provision are treated as previously taxed (effectively preventing the imposition of further tax on the metal).

Exchanges of taxable chemicals

The committee amendment provides that, when a manufacturer, producer, or importer exchanges a taxable chemical, as part of an inventory exchange with another person, the exchange is not to be treated as a taxable sale for purposes of the feedstock tax. Instead, the person receiving the chemical in the exchange is to be treated as the manufacturer, producer, or importer (as appropriate), and the tax is to be imposed upon the later sale (or use) by such person. Further, beginning January 1, 1986, the rule would apply only if (1) both parties to the exchange have registered with the Treasury Department as manufacturers, producers, or importers of taxable chemicals, and (2) the person receiving the chemical has notified the person exchanging the chemical of the recipient's registration number and Internal Revenue district.

For purposes of this provision, an inventory exchange is defined as an exchange of properties each of which is property described in section 1221 of the Code (relating to inventory, stock-in-trade, and property held primarily for sale to customers in the ordinary course of trade or business) with respect to both the transferor and transferee of the property. A transaction may be treated as an exchange although one or both parties pay reasonable transportation or similar costs in connection with the exchange.

The provision regarding tax-free exchanges is retroactive to the original effective date of the feedstock tax. However, for exchanges before January 1, 1986, the provision does not apply unless (1) the

manufacturer, producer, or importer treated the exchange as a tax-free transaction for purposes of the feedstock tax, and (2) there was an agreement (including a blanket agreement covering a series of transactions) that the person receiving the taxable chemical would be treated as the manufacturer, producer, or importer of the chemical for purposes of the tax.

Termination date

The chemical feedstocks tax expires after September 30, 1990.

Effective date

The re-enactment of and modifications to the chemical feedstocks tax are effective November 1, 1985.

d. Tax on imported chemical derivatives

The committee amendment imposes a new tax on imported substances more than 50 percent of the value of which is derived from taxable feedstocks (as defined under sec. 4662) or taxable petroleum (including petroleum products as defined under sec. 4612) that are used as feedstock materials or as process fuels. The 50-percent test is determined using the predominant method of production for the product. The Treasury Department is directed to issue regulations identifying the specific products which are subject to the tax based on this criterion. The Treasury is to have authority to change this list at any time; however, only items identified in the regulations at the time of sale or use by the importer would be subject to the tax.

The amount of tax imposed on any taxable imported substance is to be equal to the amount of tax which would have been imposed (under secs. 4662 or 4611) on the component taxable feedstocks and petroleum products (that are used as feedstock materials or process fuels in the manufacture of the import), had these components been sold in the United States for an equivalent use. If the importer does not furnish sufficient information (as established by Treasury regulations) to determine the amount of tax under this method, then the tax is to be imposed at a rate of 5 percent of the appraised value of the imported substance at the time of import.

The tax is imposed on the sale or use of taxable substances by the importer thereof. Importers subject to tax include any person entering a taxable substance into the United States for consumption, use, or warehousing. The term "United States" is defined as it is for purposes of the petroleum and feedstocks taxes. If an importer uses a taxable substance, tax is imposed on the importer as if he had sold the substance. Revenues from the tax are not to be paid to Puerto Rico and the Virgin Islands under the cover over provisions of section 7652 of the Code. The tax on imported chemical derivatives does not apply to any substance if the petroleum tax (sec. 4611) or the chemical feedstock tax (sec. 4661) is imposed on the sale or use of such substance.

The tax on imported chemical derivatives is effective on January 1, 1987.

e. Waste management tax

Imposition of tax

The committee amendment includes a new waste management tax designed to raise an estimated $1.5 billion of revenue for the Superfund. This tax is imposed on (1) the receipt of hazardous waste at a qualified hazardous waste management unit, (2) the receipt of hazardous waste for transport from the United States for the purpose of ocean disposal, and (3) the export of hazardous waste from the United States. The term "hazardous waste" means any waste listed or identified, on the date that the bill is enacted, under section 3001 of the Solid Waste Disposal Act ("SWDA"), and which is not subsequently delisted.[8] The tax does not apply to wastes that are listed or identified under a State authorized program but are not listed or identified under section 3001 of the SWDA (as of the date of enactment).

For purposes of the tax, a qualified hazardous waste management unit means the specified area of land or structure which (1) isolates the waste within a qualified waste management facility, and (2) is subject to the requirements for obtaining interim status or a final permit (under subtitle C of the SWDA including authorized State programs). A qualified waste management facility means any facility (as defined under Subtitle C of the SWDA) which has received a permit or has been accorded interim status (under section 3005 of the SWDA or an equivalent State program authorized under section 3006 of that Act).

The term "ocean disposal" means the incineration or dumping of hazardous waste over or into ocean waters or certain waters (described in the Marine Protection Research and Sanctuaries Act of 1972).

Tax rates

Under the committee amendment, the tax is imposed at three different rates depending on whether hazardous waste is managed at a (1) land surface disposal unit, (2) waste water treatment unit, or (3) any other type of hazardous waste management unit.

Land surface disposal units.—Hazardous waste received at a qualified hazardous waste management unit that is a landfill, surface impoundment, waste pile, or land treatment unit[9] will be taxed at a rate of $27 per ton in 1986. This rate is to be increased annually at the beginning of each succeeding year, reaching a maximum rate of $43 in 1990 (see Table 2).

Waste water treatment units.—Hazardous waste received at a waste water treatment facility will be taxed at a rate of $0.15 per ton. An exemption is provided for hazardous waste received at certain waste water treatment units that are not subject to required corrective actions (see below).

Other units.—Hazardous waste that is: (1) exported from the United States; (2) received for transport from the United States for

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[8] For purposes of the waste management tax, hazardous waste does not include any waste the regulation of which is suspended by Congress as of the date of enactment.

[9] These terms would be defined as under EPA regulations issued pursuant to sections 3004 and 3005 of the SWDA.

purposes of ocean disposal; (3) received at a qualified hazardous waste management unit that is an injection unit; or (4) received at a qualified hazardous waste management unit other than a land surface disposal unit or waste water treatment unit (as defined above) would be taxed at a rate of $2.70 per ton in 1986, increasing to $3 per ton in 1988-1990 (see Table 2).

For purposes of the tax, an injection unit includes, in addition to the injection well, any container, tank, or surface impoundment, that is used to treat or store hazardous waste prior to injection.

Table 2.—Waste Management Tax Rates

[Calendar year tax rates, dollars per ton]

Waste management unit	1986	1987	1988	1989	1990
Land surface disposal	27.00	30.00	31.00	36.00	43.00
Other unit	2.70	3.00	3.00	3.00	3.00
Waste water treatment [1]	0.15	0.15	0.15	0.15	0.15

[1] Waste water treatment units generally are exempt from tax unless subject to a required corrective action.

Exemptions

Removal, remedial, and corrective actions.—The committee amendment exempts from tax the receipt or export of hazardous waste pursuant to (1) a corrective action specified in (a) an initial or final order, or (b) a proposed or final permit (issued by the Administrator under the SWDA or an authorized State), (2) a proposed or final closure plan (approved by the Administrator or a State), (3) a removal or remedial action under the CERCLA which has been selected or approved by the Administrator, or (4) an emergency action to clean up a product spill that the Administrator of the EPA certifies to the Secretary of the Treasury as carrying out the purposes of the CERCLA.

Waste water treatment units.—The receipt of hazardous waste at a waste water treatment unit generally is exempt from tax. For purposes of the tax, a waste water treatment unit is defined as any hazardous waste management unit which is an integral and necessary part of a waste water treatment system, that is: (1) subject to permit requirements under the Clean Water Act (section 402), or (2) subject to pretreatment standards under the Clean Water Act (subsection (b) or (c) of section 307), or (3) a zero discharge treatment system which (a) if it discharged, would satisfy effluent guidelines or pre-treatment requirements promulgated under the Clean Water Act, or (b) absent such guidelines, employs biological treatment. A waste water treatment unit does not include any tank or surface impoundment that stores concentrated treatment residues prior to final disposition or is itself a final disposition unit.

The exemption for hazardous waste received at a waste water treatment unit does not apply if a required corrective action is not completed with respect to such unit. A required corrective action shall be treated as uncompleted during the period beginning on the

date that the corrective action is required by the Administrator (or an authorized State) and ending on the date the Administrator (or such State) certifies to the Secretary of the Treasury that such corrective action has been completed. The committee intends that, for purposes of the waste management tax, a corrective action shall not be viewed as uncompleted solely by reason of a long-term monitoring requirement, provided that monitoring is being conducted in compliance with the requirement. The exemption from tax does not apply to any hazardous residues removed from a waste water treatment facility.

Federally owned facilities.—An exemption also applies to any hazardous waste received at a facility owned by the Federal Government. The rationale for this exemption is that the committee amendment does not permit expenditures from the Superfund for remedial action at a site that is owned by the Federal Government.

Back-up tax

Under present environmental statutes, hazardous waste generally is required to be shipped to a hazardous waste facility within 90 days of generation (up to 270 days in the case of certain small generators). In some cases hazardous waste may not be received at a qualified hazardous waste management unit within 270 days of generation as a result of of disposal, treatment, recycling, or storage in a unit that is exempt under the SWDA, or as a consequence of illegal disposal ("midnight dumping"). Under the committee amendment, for waste generated after December 31, 1986, that is not delivered to a qualified hazardous waste management unit within 270 days of generation, tax is imposed on the generator at the land surface disposal rate.

Exemptions from the back-up tax are provided for hazardous waste that is (1) discharged into a publicly owned treatment works (POTW) provided that the discharge is in compliance with the requirements of the Clean Water Act, the SWDA, and other Federal, State, and local requirements, (2) generated by a small generator within the meaning of the SWDA,[10] or (3) specifically exempted from the waste management tax (by reason of receipt at a Federally owned facility or waste arising from certain remedial and removal actions). In addition, the Secretary may by regulation provide additional exemptions (or a reduction in tax rate) consistent with the purposes of the waste management tax. It is intended that such regulations will clarify that, for purposes of the back-up tax, waste that settles in tanks and impoundments shall not be considered generated until such waste is removed from such tank or impoundment. The committee anticipates that the Secretary shall promulgate regulations by January 1, 1987 which provide that the rate of back-up tax with respect to legally managed wastes at facilities not regulated under the SWDA should be determined as the rate which would be applicable to the facility had it been subject to the regular waste management tax. The committee anticipates that such regulations will address the application of the back-up tax with respect to hazardous waste that is not received at a qualified

[10] Under the SWDA, a small generator is defined as a person that generates less than 100 kilograms of hazardous waste per month.

hazardous waste management unit within 270 days of generation as a result of recycling, reuse, or reclamation in a unit that is not regulated under the SWDA.

Procedure and administration

Imposition of tax.—The tax generally is imposed on the owner or operator of a qualified hazardous waste management unit. In the case of ocean disposal, tax is imposed on the person holding the permit issued for transport for ocean disposal. In the case of export, tax is imposed on the exporter of hazardous waste. Liability for the back-up tax is imposed on the generator of the hazardous waste. The tax is imposed on a wet weight basis (i.e., no adjustment is made for the amount of water that may be contained in the waste).

Reduction in tax if prior tax paid.—If tax is paid with respect to hazardous waste (including back-up tax), and a later taxable event takes place with respect to the same waste, the tax on the later taxable event is reduced by the product of (1) the weight of hazardous waste involved in the later taxable event, and (2) the lessor of (a) the highest tax rate previously paid on any taxable event involving the same waste and (b) the rate of tax on the later taxable event (before reduction).

Credit for certain treatment, recycling, and incineration.—Under regulations prescribed by the Secretary, tax paid with respect to hazardous waste (including back-up tax) is allowed as a credit to the extent that such waste is, within 90 days of the event giving rise to tax, managed using qualifying treatment, recycling, or incineration processes. The credit is provided to the owner or operator of the qualifying treatment, recycling, or incineration facility. Processes which qualify for the credit are (1) land-based incineration, (2) methods of treatment or disposal equivalent to land-based incineration, (3) recycling of batteries, and (4) reclamation of certain qualified chemical fuels and solvents (without regard to the 90 day requirement). No credit is allowable if a corrective action (required by the Administrator of the EPA or an authorized State) remains uncompleted with respect to a treatment, recycling, or incineration unit.

A process (including a non-thermal process) shall be treated as the equivalent of land-based incineration if such process (1) conforms to performance standards established by the EPA, and (2) such standards require a destruction and removal efficiency for the hazardous waste involved at least equivalent to the standard applicable to incineration on the land. The committee recognizes that EPA performance standards do not presently exist for certain processes (such as burning hazardous waste in an industrial furnace). It is anticipated that the EPA will in such cases provide standards (either by regulation or guidance document) that may be used for purposes of the waste management tax.

The credit for reclaiming chemical fuels and solvents applies to fuels and solvents for commercial or industrial use that the Administrator of the EPA has determined not to be hazardous waste (either by rule or specific delisting).

Possessions.—The U.S. possessions are treated as being part of the United States. Thus, exports of hazardous waste from a posses-

sion would be subject to tax. Tax imposed with respect to hazardous waste received from a possession is not paid over to Puerto Rico and the U.S. Virgin Islands under section 7652 of the Code.

Information reporting and penalties.—Persons subject to the waste management tax would be required to submit to the Treasury such information as may be required in regulations, including (but not limited to) information which is required to be provided to EPA under the SWDA. A penalty of $100 per day (but not to exceed $50,000) would be imposed for failure to provide such information, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The penalty is in addition to any other penalty provided by law.

Effective date

The waste management tax is effective for hazardous waste received or exported after December 31, 1985. The back-up tax is effective for waste generated after December 31, 1986.

Termination date

The waste management tax expires after September 30, 1990. The back-up tax does not apply to waste generated after September 30, 1990.

Study of trade impact of waste management tax

The Department of the Treasury is instructed to evaluate the effect of the waste management tax on the ability of domestic manufacturers to compete in international trade, and to deliver recommendations for mitigating any adverse trade impacts to the Committee on Ways and Means by July 1, 1986. The study is to include recommendations regarding an export credit, an import equalization fee, and a cap on the amount of tax for economically distressed industries.

f. Superfund excise tax

General rules

The committee amendment establishes a new Superfund Excise Tax on manufacturers and importers. The tax, which is at a 0.08 percent rate, is imposed on the sale, lease, or import of tangible personal property by the manufacturer or importer of the property. Exports of tangible personal property are exempt. In addition, unprocessed agricultural products, food, fertilizer, and unprocessed timber are exempt. To avoid the imposition of duplicative taxes in multi-stage production, manufacturers will be allowed a credit based on their purchases of tangible personal property (e.g., materials and equipment) allocable to the manufacture of tangible personal property. Small manufacturers (with less than $10 million of otherwise taxable receipts) and small import shipments (under $10,000) are exempt from the tax.

Imposition of the tax

Under the committee amendment, the Superfund Excise Tax is imposed on the sale or lease (in connection with a trade or business) of tangible personal property by the manufacturer. The tax is

generally imposed on the sale or leasing of tangible personal property for use, consumption, or disposition in the United States.[11] The tax is not imposed on sales or leases of tangible personal property for use outside the United States. The tax rate is 0.08 percent ($8 per $10,000 of taxable amount). The taxable amount in the case of a sale is the price (in money or the fair market value of other consideration) charged to the purchaser by the seller, including items payable to the seller during the taxable period with respect to the transaction (including Federal, State, and local sales and excise taxes, other than the Superfund Excise Tax and certain other specified Federal excise taxes on manufacturers, imposed on the transaction). A transfer or exchange, other than a gift within the meaning of sections 102 or 170 of the Code, is treated as a sale for purposes of the Superfund Excise Tax.

In the case of a lease by the manufacturer of the taxable property, the taxable amount is the gross lease payments received during the taxable period (including Federal and State sales and excise taxes, other than Superfund Excise Tax and certain other specified Federal excise taxes on manufacturers, imposed on the lease). The tax applies to lease payments received (or considered received under the partial year proration rules described below) during the period the Superfund Excise Tax is in effect, regardless of when the lease was entered into. The manufacturer is liable for the tax.

The sale or lease of tangible personal property by a person who included the cost of such property in qualified inventory cost is treated as a sale or lease by the manufacturer. Thus, the tax applies to the resale or sublease of tangible personal property in the same manner that the tax applies to the original sale or lease of the tangible personal property. This rule prevents the claiming of excess credits with respect to resales or subleases.

The tax is also imposed on the import of tangible personal property into the United States by the importer of the tangible personal property. The taxable amount is the customs value plus customs duties (and any other duties) that may be imposed. The tax on imports is to be collected in the same manner as duties by the customs service. Shipments for which the taxable amount is less than $10,000 are exempt from the tax. The importer is liable for the tax.

The Superfund Excise Tax is deductible in determining Federal income tax liability.

Definitions and special rules

Manufacturer.—"Manufacturer" includes any producer of tangible personal property, including raw materials. The committee intends that the term "manufacturer" be read broadly to include mining and extraction. The categories of mining and manufacturing establishments set forth in Divisions B and D of the Standard Industrial Classification ("SIC") Manual, published by the Office of Management and Budget, generally reflect the committee's intent as to the proper line separating manufacturing from nonmanufacturing activity. The SIC Manual generally excludes from manufacturing agriculture, forestry, fishing, and construction.

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[11] For these purposes, the United States includes the 50 States, the District of Columbia, and any Commonwealth or possession of the United States.

The following activities are not taken into account for purposes of determining whether a person is a manufacturer. Manufacturing does not include services furnished incidental to the storage or transportation of property or the incidental preparation of property by a retailer or wholesaler, including routine assemblage. For example, the incidental preparation of property would include the routine preparation of an automobile for the retail customer by a retail automobile dealer.

Tangible personal property.—Tangible personal property, for purposes of this tax, generally includes all property that is not either real property or intangible property. It includes gases, such as natural gas, and other gaseous materials, but does not include electricity.

Tangible personal property does not include mineral rights (including oil or gas rights), since these interests are themselves considered to be real property. Minerals (or oil or gas) are, however, considered to be tangible personal property after they have been mined or otherwise extracted. Additionally, tangible personal property does not include rights to or interests in intellectual property, such as copyrights or royalty payments on property such as books. These interests are considered to be intangible property. Tangible personal property does, however, include the actual property produced, such as the books or other printed material produced by the manufacturer.

Containers, transportation charges, constructive sales price.—The Secretary of the Treasury is to issue regulations specifying that charges for coverings, containers, and packing are included in the taxable amount. The regulations are also to provide that (1) transportation (including pipeline transportation) and related charges (including insurance and installation) and (2) the Superfund Excise Tax and certain other specified Federal excise taxes imposed on manufacturers (but no other excise tax) are excluded from the taxable amount (but only to the extent the amount of the transportation and related charges is established to the satisfaction of the Secretary in accordance with regulations).

The regulations are also to provide rules establishing a constructive sales price when, for example, a manufacturer sells directly at retail or sells only or primarily to related persons. If a natural gas pipeline company sells natural gas that it has produced itself ("pipeline-owned" production), these Treasury regulations should provide that the constructive sales price for purposes of the Superfund Excise Tax is the price established under the Natural Gas Policy Act and Federal Energy Regulatory Commission (FERC) regulations. These FERC regulations treat pipeline-owned production in the same manner as natural gas produced by an affiliated company. The natural gas is considered sold, for purposes of the Superfund Excise Tax, when it is transferred from the well to the pipeline.

These regulations are to be similar to the rules of section 4216(a) and (b) (relating to containers, packing, and transportation charges, and constructive sales prices for excise tax purposes).

Timing of receipt and expenses.—In computing the taxable amount and qualified inventory costs of a taxpayer, an amount shall be treated as recognized, paid, or incurred at the time it is

recognized, paid, or incurred under the taxpayer's method of accounting for Federal income tax purposes.

A special rule applies to installment sales. The taxable amount of the seller includes, for a taxable period, only the principal payments received during that taxable period. The qualified inventory costs of the buyer includes, for a taxable period, only the portion of the costs corresponding to the principalpaid during the taxable period. Thus, the seller is taxed, and the buyer obtains credit for the item purchased, over the term of the installment sale. This rule matches the timing of the seller's tax with the timing of the buyer's credits.

Credit against tax

The committee amendment provides manufacturers a credit against the Superfund Excise Tax that is the greater of two amounts:

(1) The first amount is equal to the Superfund Excise Tax imposed on sales and leases (but not imports), to the extent it does not exceed $8,000.[12] Persons under common control (whether corporations, partnerships, proprietorships, or other entities) are to be treated as one taxpayer for purposes of the standard $8,000 credit. The rules of section 52 (originally drafted for purposes of the targeted jobs credit) apply to determine whether persons are under common control. Thus, a manufacturer (but not an importer) with a taxable amount of $10 million or less would be exempt from the tax ($10 million times 0.08 percent equals $8,000).

(2) The second amount is equal to the qualified inventory costs of the taxpayer multiplied by .08 percent.

The committee recognizes that these rules may provide the taxpayer with a credit against tax that is larger than the tax actually paid. (For example, sellers with less than $10 million of receipts are exempt, and buyers include Superfund and other manufacturers' excise taxes as well as wholesale margins in computing credits.) Excess credits could be avoided by limiting the credit to the amount of tax shown on invoices; however, the desire of the committee to make administration of the tax as simple as possible, in conjunction with the low rate of tax, outweighs concerns about the technical perfection of the credit mechanism.

Qualified inventory costs are direct material and other costs (including the Superfund Excise Tax on such materials) of tangible personal property that are allocable to the manufacturer's inventory and are paid or incurred during the taxable period for which the manufacturer is liable for the Superfund Excise Tax. Thus, the inventory tax accounting rules used in the definition of qualified inventory costs identify the items includible in qualified inventory costs, but not the time when the cost of these items is recognized for purposes of the Superfund Excise Tax. The cost is recognized at the time it is paid or incurred by the manufacturer.

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[12] This amount is prorated for taxable periods that do not include 12-full months. Thus, for example, a manufacturer subject to this tax for 6 months of a 12-month taxable year would be entitled to a maximum credit of $4,000 under this provision. The amount is also prorated for short taxable periods.

Qualified inventory costs for any taxable period are amounts paid or incurred during the taxable period for tangible personal property (other than exempt products and property used to manufacture exempt products) which is allocable to the inventory of a manufacturer under the full absorption method of accounting (sec. 471). Exempt products include food, fertilizer, and unprocessed agricultural, fishery, and timber products (see below). Taxpayers that do not use the full absorption method of inventory accounting for income tax purposes are, neverthelesss, required to use the standards of full absorption accounting for purposes of determining qualified inventory costs.

In lieu of any allowance for depreciation and amortization, with respect to tangible personal property, qualified inventory costs include the amount paid or incurred for such property in the year placed in service.[13] In the case of any tangible personal property purchased under the installment method, the cost of such property shall be taken into account, for purposes of determining qualified inventory costs, only when paid (see above).

Qualified inventory costs generally include the cost of utilities subject to the Superfund Excise Tax. Thus for example, the cost of natural gas, but not the cost of electricity would be included in qualified inventory costs. Qualified inventory costs include lease payments on qualifying equipment paid or incurred during the period the Superfund Excise Tax is in effect. Qualified inventory costs do not, however, include any cost or amount with respect to an item acquired before the effective date of the tax. Additionally, qualified inventory costs do not include the inventory costs of any non-manufacturing operation. For purposes of computing qualified inventory costs, tangible personal property that is manufactured for lease is treated in the same manner as property that is manufactured for sale.

The amount of the credit allowed to be claimed for a particular taxable period may not exceed the liability for the Superfund Excise Tax. The amount by which the credit for qualified inventory costs exceeds the liability for a particular taxable period may be carried to the next taxable period and added to the credit potentially allowable for that period. No carryover is permitted for the excess, if any, of the standard $8,000 credit over the tax liability for any taxable period. If, for example, a manufacturer had qualified inventory costs of $11 million in a taxable period but received $8 million in taxable receipts, then pre-credit tax liability would be $6,400 (0.08 percent of $8 million) and the tax credit would be $8,800 (0.08 percent of $11 million). The taxpayer would be allowed to claim a credit of $6,400, and could carry over $2,400 ($8,800 minus $6,400) of unused credits to subsequent taxable periods. If in the previous example, qualified inventory costs were $5 million, then tax credits would be $8,000 (the greater of $8,000 and 0.08 percent of $5 million). The taxpayer would be allowed to claim a credit of $6,400, but the unused credit of $1,600 ($8,000 minus $6,400)

[13] If only a portion of depreciation or amortization is allocable to the inventory of a manufacturer, then the same portion of the amount paid or incurred for the property is allocable to qualified inventory costs.

would not be carried forward to subsequent taxable periods because the excess credit is attributable to the standard $8,000 credit.

The committee amendment also provides that the amount of the Superfund Excise Tax credit for any particular item of tangible personal property must be subtracted from the income tax basis of that item. The amount of the basis adjustment is determined as 0.08 percent of the cost of the property included in qualified inventory costs. (In the case of an installment sale, the basis adjustment is computed as 0.08 percent of the principal amount of the installment obligation). Taxpayers not otherwise required to file returns for this tax must file returns and make this basis adjustment to claim the item of tangible personal property in qualified inventory costs.

The credits will carryover in a corporate reorganization in any situation in which there is a carryover of credits under section 381.

Exempt transactions

The committee amendment exempts several types of transactions from the Superfund Excise Tax. First, the Superfund Excise Tax is not imposed on the sale of any property that is to be exported outside the United States, as provided in regulations. The committee intends that these regulations follow the principles of section 4221(b) (relating to excise taxes), and the regulations thereunder, for purposes of proving that an article has been exported. In particular, the committee intends that Treasury regulations adopt the rule in section 4221(b) that provides that the exemption from tax ceases to apply to the sale of an article unless, within six months of the earlier of either the date of sale or date of shipment by the manufacturer, the manufacturer receives proof that the article has been exported.

The committee amendment exempts from the Superfund Excise Tax the sale or lease of tangible personal property by the United States or any other governmental entity or by an organization that is exempt from the income tax under section 501(a) (unless the transaction is part of an unrelated trade or business within the meaning of section 513). Imports by governmental entities and organizations that are exempt from the income tax are subject to the Superfund Excise Tax.

The committee amendment exempts small imports from this tax. A small import is any shipment (whether formal or informal) the taxable amount of which is less than $10,000. The committee intends that "shipment" be interpreted for purposes of this tax in the same manner that it is generaliy interpreted for customs purposes. Thus, a shipment is generally all articles on one carrier for one consignee on one day.

The committee amendment exempts from the tax food (whether for humans or animals), any product used as fertilizer, unprocessed agricultural or fishery products, and unprocessed timber. The term "food" does not include pharmaceuticals or other forms of medicine, whether available over the counter or by prescription only. Food generally includes beverages, except that it does not include alcoholic beverages. Food does include any additives. Any material, component, or packaging of food or fertilizer is considered to be part of the food or fertilizer. The committee intends that Treasury

regulations coordinate the definitions of unprocessed agricultural products and food products with the 5-digit tariff code for purposes of exempting from this tax imports of these items.

Time for filing returns and related administrative matters

Taxpayers are required to file a Superfund excise tax return annually, at the same time they file their regular income tax return. Thus, for example, a corporation that has as its taxable year the calendar year would be required to file the Superfund Excise Tax return by March 15 of the following year, which is the same date that its corporate income tax return (Form 1120) is due. As with other tax returns, the Secretary may grant a reasonable extension of time for filing a Superfund Excise Tax return (*see* sec. 6081).

The committee amendment provides that a manufacturer who has $10 million or less of aggregate receipts from the sale or lease of tangible personal property (excluding exports) is not required to file a Superfund Excise Tax return.[14] These taxpayers have no tax liability because of the credit mechanism (described above). Taxpayers who are under common control are treated as one person for purposes of this exemption from the requirement to file a return. In addition, the Secretary may provide by regulations that certain other taxpayers with more than $10 million of sales or lease receipts, but who may have no tax liability, need not file returns. Taxpayers not otherwise required to file returns must, however, file returns and make the income tax basis adjustment (described above) in order to claim items of tangible personal property in qualified inventory costs and to carry forward credits into future years.

The taxable period for which liability for the Superfund excise tax must be determined is the taxable person's taxable year for purposes of the income tax. If the taxpayer does not have a taxable year for purposes of the income tax, then the taxable period for purposes of the Superfund Excise Tax is the calendar year.

The penalties for failure to file a tax return or to pay tax that are applicable to the income tax (sec. 6651) are made applicable to the Superfund Excise Tax. In addition, the civil negligence penalty (sec. 6653(a)) that is applicable to the income tax is made applicable to the Superfund Excise Tax. The criminal penalties of the Code are generally applicable to the Superfund Excise Tax.

The committee amendment generally requires that the Superfund Excise Tax be deposited quarterly after the first taxable period in which a taxable sale or lease occurs. For the first taxable year that a manufacturer is potentially subject to this tax, any manufacturer with more than $50 million of sales or lease payments determined in the prior year is required to deposit quarterly. (For this purpose, controlled groups are treated as one taxpayer.) In subsequent taxable years, any manufacturer not previously liable for a payment of Superfund Excise Tax will not be required to deposit quarterly. Thus, for example, a manufacturer who paid

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[14] This exemption is prorated for taxable periods that do not include 12 full months. Thus, for example, a manufacturer subject to this tax 6 months of a 12-month taxable year would not be required to file a return if it had less than $5 million of sales or lease receipts in that taxable year. This exemption is also prorated for short taxable periods.

Superfund Excise Tax for 1986 would be required to deposit quarterly in 1987, whereas a manufacturer not required to pay any Superfund Excise Tax in 1986 would pay the Superfund Excise Tax (if any) for which the manufacturer is liable for 1987 with the manufacturer's return. The existing penalty for failure to make deposits (Code sec. 6656) applies to failures to deposit the Superfund Excise Tax. This penalty will not apply, however, if the manufacturer deposits at least the lesser of 90 percent of the tax due or 100 percent of the previous year's liability.[15]

The tax on imports is to be collected in the same manner as duties by customs agents. Consequently, the committee amendment does not specify deposit rules for the tax on imports.

Revenues from the Superfund Excise Tax are not paid to Puerto Rico or the Virgin Islands or any other possession or territory under the cover over provisions of section 7652 of the Code or similar provisions.

The Secretary of the Treasury is authorized to issue regulations to carry out the purposes of the Superfund Excise Tax.

Effective dates

The Superfund Excise Tax applies with respect to taxable amounts received or accrued after December 31, 1985. The tax will not apply with respect to taxable amounts received or accrued after December 31, 1990. In addition, the tax will terminate prior to December 31, 1990, if taxes, general revenues, recoveries, and interest paid into the Superfund Trust Fund total more than $10 billion (as estimated by the Secretary of the Treasury) at the close of any calendar quarter before September 30, 1990. If this occurs, the tax will terminate at the end of that calendar quarter.

The committee amendment provides special rules for any taxable period including but not beginning on January 1, 1986 or January 1, 1990. In the case of such a taxable period, the taxpayer must, in computing its taxable amount and credit for the Superfund Excise Tax, prorate its receipts and purchases on a daily basis. For example, a taxpayer whose taxable year runs from February 1 to January 31 must, under this special rule, prorate $^{31}/_{365}$ of its receipts and $^{31}/_{365}$ of its purchases as representing those amounts for the period for January 1 through January 31, 1986. In addition, the $8,000 standard credit similarly would be prorated.

g. Report on environmental lead

The committee amendment requires that the Administrator of the Agency for Toxic Substances and Disease Registry, in consultation with the Administrator of the Environmental Protection Agency, report to Congress by March 1, 1986 on environmental

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[15] A taxpayer may avoid this penalty with respect to any year the taxpayer is liable for Superfund Excise Tax by depositing at least 90 percent of the tax due for that taxable year. A taxpayer may, however, avoid this penalty with respect to a year the taxpayer is liable for this tax by depositing 100 percent of the previous year's liability for this tax only if the taxpayer prorates this amount for a full 12-month period. Thus, if a taxpayer was liable for $100,000 of Superfund Excise Tax for its taxable year July 1, 1985 through June 30, 1986, the taxpayer would be considered to have deposited 100 percent of the previous year's liability by depositing $200,000.

lead. The cost of the report is to be paid by the Superfund. Specifically, the report must include the following information:

(1) The number of children exposed to environmental sources of lead in high enough concentrations to cause adverse health effects;

(2) An estimate of the number of children exposed to lead according to the source of lead;

(3) A statement of the long-term consequences for public health (including mental and physical impairments and death) of unabated exposure to environmental sources of lead; and

(4) Methods and alternatives for reducing the exposure of children to lead.

2. Repeal of Post-Closure Liability Tax and Trust Fund

The committee amendment retroactively repeals the tax on hazardous wastes under section 4681 of the Code, effective October 1, 1983, and terminates the Post-Closure Liability Trust Fund as of that date. Refunds (with interest) would be allowed for taxpayers who paid taxes on hazardous wastes under section 4681.

3. Leaking Underground Storage Tank Trust Fund and Tax

a. Leaking Underground Storage Tank Trust Fund

The committee amendment establishes a new trust fund, the Leaking Underground Storage Tank Trust Fund, under the Internal Revenue Code. The purpose of this trust fund is to pay for the costs of corrective actions involving leaks of petroleum and petroleum products from underground storage tanks (see sec. 9003(h) of the Solid Waste Disposal Act as added by the authorizing committees. The Trust Fund generally is to be used to pay cleanup and related costs involving tanks where no solvent owner can be found, or the owner or operator refuses or is unable to comply properly with a corrective action order necessary to protect human health and the environment. The Trust Fund would also be available to provide grants to States authorized to carry out corrective actions. Claims filed against the Trust Fund may be paid only out of such Trust Fund. Claims in excess of the Trust Fund balance shall be paid in full (to the extent of such balance) in the order in which the claim was finally determined.

The Trust Fund will be financed by (1) a tax on gasoline, diesel and special motor fuels (described below), (2) interest on balances in the Trust Fund, and (3) amounts recovered from responsible parties for costs incurred by the Administrator of the EPA (or by a State) in undertaking a corrective action with respect to the release of petroleum and petroleum products from an underground storage tank.

b. Tax on gasoline, diesel and special motor fuels

Under present law, an excise tax is imposed on gasoline sold by a producer or importer thereof (sec. 4081), and on the sale (or use) of diesel fuel and special motor fuels (sec. 4041). Special motor fuels include benzol, benzene, naptha, liquid petroleum gas, casing head and natural gasoline, and any other liquid (other than kerosene, gas oil, fuel oil, or gasoline) sold for use in motor vehicles or motor

boats. No tax is imposed on diesel and special motor fuels used for off-highway business use, or for use on a farm for farming purposes. Gasoline, diesel and special motor fuels sold for use as a fuel in an aircraft in noncommercial aviation are taxable. Exemptions are provided for certain aircraft museums and helicopter uses. Gasoline mixed with certain alcohol products is subject to tax at a reduced rate.

Under the committee amendment, an additional tax of 0.2 cent per gallon is imposed on the sale (or use) of gasoline, diesel and special motor fuels subject to tax under sections 4041 and 4081 of the Code. Revenues from this tax, or equivalent amounts, are to be deposited in the Leaking Underground Storage Tank Trust Fund.

The tax is effective on November 1, 1985. The tax terminates after September 30, 1990. Earlier termination would occur at the end of any month in which the Secretary of the Treasury first determined that cumulative net revenues equal or exceed $850 million.

4. Oil Spill Liability Tax and Trust Fund

a. Oil Spill Liability Trust Fund

Expenditure purposes

The committee amendment establishes an Oil Spill Liability Trust Fund under the Internal Revenue Code. Amounts in the Trust Fund are available for the payment of removal costs incurred in cleaning up or preventing oil pollution from vessels or offshore facilities, including costs incurred by government officials in carrying out oil pollution cleanup requirements under the Federal Water Pollution Control Act and the Intervention on the High Seas Act. The fund may also be used to pay removal costs the liability for which is transferred to the fund from the Deepwater Port Liability Fund (established under the Deepwater Port Act of 1974) or the Offshore Oil Pollution Compensation Fund (established under the Outer Continental Shelf Lands Act Amendments of 1978). No fund moneys may be used to pay natural resource and other claims for damages or economic loss pursuant to any of these provisions.

Amounts in the Trust Fund are available to pay contributions to the fund established by the 1984 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, if this convention (and a related liability convention) comes into force with respect to the United States. Trust Fund moneys may also be used to pay administrative costs. However, such contributions shall be reduced to the extent that the International Fund is used for expenditure purposes that are not permissible uses of the Oil Spill Liability Trust Fund.

The liability of the Trust Fund cannot exceed $200 million for any single incident. The committee amendment also states that no claim (other than a claim for removal costs) could be paid to the extent that payment would reduce the amount in the Trust Fund below $30 million.[16]

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[16] Under a committee amendment, only claims for removal costs could be paid by the fund.

Claims against the Trust Fund can be paid only out of the Trust Fund. If the fund is unable to pay all claims, claims will be paid in full (subject to the limitations above) in the order in which the claims are finally determined.

Other financing sources

The following amounts are to be deposited in the Trust Fund:

(1) A 1.3-cents-per-barrel tax on crude oil and imported petroleum products (described below),

(2) Amounts recovered, collected, or received from responsible parties under subtitle A of the Comprehensive Oil Pollution Liability and Compensation Act, as reported by the authorizing committees,

(3) Amounts remaining in the Deepwater Port Liability Fund and the Offshore Oil Pollution Compensation Fund after the new Trust Fund and petroleum tax become effective,

(4) Income on Trust Fund investments, and

(5) The proceeds of authorized borrowing by the Fund (which is not to exceed $300 million in outstanding indebtedness at any time).

Effective date

These provisions are effective on January 1, 1986.

b. Tax on petroleum

Imposition of tax

The committee amendment imposes a new excise tax of 1.3 cents per barrel on domestic crude oil and on petroleum products (including crude oil) imported into the United States. The tax is imposed on the same crude oil and petroleum products, and is subject to the same definitional and other provisions, as is the Superfund petroleum tax (discussed above), and is in addition to that tax. Amounts equivalent to the revenues from the tax are to be deposited in the Oil Spill Liability Trust Fund.

The collection, enforcement, and penalty provisions that are applicable to the Superfund petroleum tax are also applicable to this petroleum tax.

Effective date

The tax applies from January 1, 1986 through September 30, 1990.

5. Coordination With Other Provisions

The committee amendment provides that any provision of the Act outside the Title reported by the Committee on Ways and Means, which provision (1) imposes any tax, premium, or fee, (2) establishes any trust fund, or (3) authorizes any trust fund expenditures not also authorized by that title, is to have no force or effect.

III. BUDGET EFFECTS

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effect on the budget of the committee amendment to title IV of the bill (H.R. 2817).

The following table shows the estimated revenue effects of the tax provisions of the committee amendment.

Estimated Revenue Effects of Committee Amendment to H.R. 2817, Fiscal Years 1986–1991

[In millions of dollars]

Tax Provision	1986	1987	1988	1989	1990	1991	Total
Superfund Taxes							
Petroleum tax (3.85 cents/barrel)	172	203	205	206	207	12	1,005
Chemical feedstocks tax (see Table 1 for rates)	167	290	319	343	366	22	1,507
Waste management tax	207	319	328	324	317	19	1,514
Superfund excise tax (0.08 percent)	285	782	846	920	1,003	661	4,497
Tax on imported chemical derivatives	.....	12	18	18	18	1	67
Total Superfund tax receipts	831	1,606	1,716	1,811	1,911	715	8,590
Leaking Underground Storage Tank Trust Fund							
Tax on gasoline, other motor fuels (0.2 cents/gal.)	214	245	241	150	.....	.....	850
Oil Spill Liability Fund Tax							
Petroleum tax (1.3 cents/barrel)	47	69	69	70	70	4	329
Refund of Post-closure Trust Fund Tax	−15	.....	.....	.....	.....	.....	−15
Total Tax Revenues to Trust Funds	1,077	1,920	2,026	2,031	1,981	719	9,754
Net Increase in Budget Receipts (after income tax offsets)	804	1,440	1,520	1,523	1,486	539	7,312

NOTE.—The Treasury Department agrees with these estimates.

IV. VOTE OF THE COMMITTEE AND OTHER MATTERS TO BE DISCUSSED UNDER HOUSE RULES

A. Vote of the Committee

In compliance with clause 2(l)(2)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made concerning the vote of the committee on the motion to report the committee amendment to the bill (H.R. 2817). The committee amendment was ordered favorably reported by voice vote.

B. Other Matters

In compliance with clause 2(l)(3) and 2(l)(4) of Rule XI of the House of Representatives, the following statements are made with respect to the committee action on the committee amendment to the bill.

Oversight Findings

With respect to subdivision (A) of clause 2(l)(3) (relating to oversight findings), the committee advises that it was a result of the committee's review of the financing of the Superfund and the proposed expansion of the Superfund program by the authorizing committees that the committee concluded that it is appropriate to reenact and expand the revenue sources for the Superfund for 5 years. (The authorizing committees extended the Superfund program for 5 years, fiscal years 1986–1990, in titles I–III of H.R. 2817.)

In addition, the committee decided to establish two other trust funds, financed primarily by earmarked excise taxes: a Leaking Underground Storage Tank Trust Fund and an Oil Spill Liability Trust Fund. These trust funds will finance specific clean up programs included in H.R. 2817 by the authorizing committees.

The Committee on Ways and Means held a public hearing on Superfund financing proposals on May 9, 1985. The committee marked up a revenue title (title IV) for H.R. 2817 on October 17 and 23, 1985.

Tax Expenditures

With respect to subdivision (B) of clause 2(l)(3), after consultation with the Director of the Congressional Budget Office, the committee states that the changes made by the committee amendment as reported involve no new or increased tax expenditures.

Budget Authority

With respect to subdivision (B) of clause 2(l)(3), after consultation with the Director of the Congressional Budget Office, the committee states that the changes made by the committee amendment as

reported involve new budget authority (for payment of interest on refunds of the repealed post-closure waste tax) of less than $4 million for fiscal year 1986.

Congressional Budget Office Estimates

With respect to subdivision (C) of clause 2(l)(3), the committee states that a statement from the Director of the Congressional Budget Office concerning the committee's budget estimates has not been received at the time of filing this report.

Oversight by Committee on Government Operations

With respect to subdivision (D) of clause 2(l)(3), the committee advises that no oversight findings or recommendations have been submitted by the Committee on Government Operations regarding the subject matter of the committee amendment.

Inflationary Impact

In compliance with clause 2(l)(4), the committee states that the enactment of the committee amendment to H.R. 2817 could result in increased prices in the national economy to the extent that the increased or new excise taxes contained in the committee amendment are passed on to the purchasers of the taxed commodities.

The tax on petroleum will increase from 0.79 cent per barrel under prior law to 5.15 cents per barrel (3.85 cents for the Superfund plus 1.3 cents for the new Oil Spill Fund). The tax on chemical feedstocks will decline slightly for certain chemicals and increase for others as compared to prior law. Exported chemicals are exempt from the tax. Beginning in 1987, this tax will be indexed. Also beginning in 1987, there will be a tax imposed on imports of certain products derived from taxable feedstocks, as defined under Treasury regulations. Revenues from the tax on chemicals will go into the Superfund.

A new waste management tax will be imposed beginning in 1986 (which will increase each year for 5 years, see Table 2), as well as a new manufacturers excise tax of 0.08 percent (with no tax on small manufacturers having $10 million or less in taxable receipts per year). Revenues from these taxes will also go into the Superfund.

An additional tax of 0.2 cent per gallon will be imposed on gasoline, diesel fuel, and other motor fuels; the revenues from this tax will go into a new Leaking Underground Storage Tank Trust Fund.

Further, the committee amendment repeals the Post-closure Liability Trust Fund and refunds the prior law post-closure waste tax to the original taxpayers.

Since these excise taxes are deductible for income tax purposes, the net impact on overall prices in the affected industries and the economy will be lessened. The increased costs attributable to the excise taxes will be relatively small in relation to the overall price of the taxed commodities, and will be offset further in savings to the nation's environment and health from the cleaning up of hazardous wastes and petroleum spills provided for under the trust funds.

V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

The bill was referred to this committee for consideration of title IV. The changes made to existing law by the complete bill as reported by the Committee on Energy and Commerce are shown on pages 143 through 248 of House Report 99-253, Part I, August 1, 1985.

For the information of the Members, provisions of law affected by the Committee on Ways and Means' amendment to the bill are shown here as follows: existing law proposed to be omitted both by the Committee on Energy and Commerce and by the Committee on Ways and Means is enclosed in black brackets, existing law proposed to be omitted only by the Committee on Energy and Commerce is enclosed in black parentheses, existing law proposed to be omitted only by the Committee on Ways and Means is printed in linetype, new matter proposed to be inserted by both committees is printed in italic, new matter proposed to be inserted only by the Committee on Energy and Commerce is printed in italic linetype, new matter proposed to be inserted only by the Committee on Ways and Means is printed in boldface roman, and existing law in which no change is proposed is shown in roman.

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980

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TITLE I—HAZARDOUS SUBSTANCES RELEASES, LIABILITY, COMPENSATION

DEFINITIONS

Sec. 101. IN GENERAL.—
(1) * * *

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(11) "Fund" or "Trust Fund" means the Hazardous Substance (Response Fund established by section 221 of this Act) **Superfund established by section 9505 of the Internal Revenue Code of 1954** **[**or, in the case of a hazardous waste disposal facility for which liability has been transferred under section 107(k) of this Act, the Post-closure Liability Fund established by section 232 of this Act**]**;

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TITLE II—HAZARDOUS SUBSTANCE RESPONSE REVENUE ACT OF 1980

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~~Subtitle B—Establishment of Hazardous Substance Response Trust Fund~~

~~SEC. 221. ESTABLISHMENT OF HAZARDOUS SUBSTANCE RESPONSE TRUST FUND.~~

~~(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Hazardous~~ [Substance Response Trust Fund] *Substances Superfund*" ~~(hereinafter in this subtitle referred to as the "Response Trust Fund"), consisting of such amounts as may be appropriated or transferred to such Trust Fund as provided in this section.~~

~~(b) TRANSFERS TO RESPONSE TRUST FUND.—~~

~~(1) AMOUNTS EQUIVALENT TO CERTAIN TAXES, ETC.—There are hereby appropriated, out of any money in the Treasury not otherwise appropriated, to the Response Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this subtitle referred to as the "Secretary") to be equivalent to—~~

~~(A) the amounts received in the Treasury under section 4611 or 4661 of the Internal Revenue Code of 1954,~~

~~(B) the amounts recovered on behalf of the Response Trust Fund under this act,~~

~~(C) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,~~

~~(D) penalties assessed under title I of this Act, and~~

~~(E) punitive damages under section 107(c)(8) of this Act.~~

~~(2) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to the Emergency Response Trust Fund for fiscal year—~~

~~(A) 1981, $44,000,000,~~

~~(B) 1982, $44,000,000,~~

~~(C) 1983, $44,000,000,~~

~~(D) 1984, $44,000,000, and~~

~~(E) 1985, $44,000,000, plus an amount equal to so much of the aggregate amount authorized to be appropriated under subparagraphs (A), (B), (C), and (D) as has not been appropriated before October 1, 1984.~~

~~(3) TRANSFER OF FUNDS.—There shall be transferred to the Response Trust Fund—~~

~~(A) one-half of the unobligated balance remaining before the date of the enactment of this Act under the Fund in section 311 of the Clean Water Act, and~~

~~(B) the amounts appropriated under section 504(b) of the Clean Water Act during any fiscal year.~~

[(c) EXPENDITURES FROM RESPONSE TRUST FUND.—

[(1) IN GENERAL.—Amounts in the Response Trust Fund shall be available in connection with releases or threats of releases of hazardous substances into the environment only for purposes of making expenditures which are described in sec-

tion 111 (other than subsection (j) thereof) of this Act, as in effect on the date of the enactment of this Act, including—

[(A) response costs,

[(B) claims asserted and compensable but unsatisfied under section 311 of the Clean Water Act,

[(C) claims for injury to, or destruction or loss of, natural resources, and

[(D) related costs described in section 111(c) of this Act.

[(2) LIMITATIONS ON EXPENDITURES.—At least 85 percent of the amounts appropriated to the Response Trust Fund under subsection (b)(1)(A) and (2) shall be reserved—

[(A) for the purposes specified in paragraphs (1), (2), and (4) of section 111(a) of this Act, and

[(B) for the repayment of advances made under section 223(c), other than advances subject to the limitation of section 223(c)(2)(C).]

(C) EXPENDITURES FROM TRUST FUND.—Amounts in the Response Trust Fund shall be available for expenditure only as provided in section 111 of title I of this Act.

SEC. 222. LIABILITY OF UNITED STATES LIMITED TO AMOUNTS IN TRUST FUND.

(a) GENERAL RULE.—Any claim filed against the Response Trust Fund may be paid only out of such Trust Fund. Nothing in this Act (or in any amendment made by the Act) shall authorize the payment by the United States Government of any additional amount with respect to any such claim out of any source other than the Response Trust Fund.

(b) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Response Trust Fund is unable (by reason of subsection (a) or the limitation of section 221(c)(2)) to pay all of the claims payable out of such Trust Fund at such time, such claims shall, to the extent permitted under subsection (a), be paid in full in the order in which they were finally determined.

SEC. 223. ADMINISTRATIVE PROVISIONS.

(a) METHOD OF TRANSFER.—The amounts appropriated by section 221(b)(1) shall be transferred at least monthly from the general fund of the Treasury to the Response Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in such section. Proper adjustments shall be made in the amount subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(b) MANAGEMENT OF TRUST FUND.—

(1) REPORT.—The Secretary shall be the trustee of the response Trust Fund, and shall report to the Congress for each fiscal year ending on or after September 30, 1981, on the financial condition and the results of the operations of such Trust Fund during such fiscal year and on its expected condition and operations during the next 5 fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) INVESTMENT.—It shall be the duty of the Secretary to invest such portion of such Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of such Trust Fund and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United

States of comparable maturities. The income on such investments shall be credited to and form a part of such Trust Fund.

(c) AUTHORITY TO BORROW.—

(1) IN GENERAL.—There are authorized to be appropriated to the Response Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.

(2) LIMITATIONS ON ADVANCES TO RESPONSE TRUST FUND.—

(A) AGGREGATE ADVANCES.—The maximum aggregate amount of repayable advances to the Response Trust Fund which is outstanding at any one time shall not exceed an amount which the Secretary estimates will be equal to the sum of the amounts which will be appropriated or transferred to such Trust Fund under paragraph (1)(A) of section 221(b) of this Act for the following 12 months, and

(B) ADVANCES FOR PAYMENT OF RESPONSE COSTS.—No amount may be advanced after March 31, 1983, to the Response Trust Fund for the purpose of paying response costs described in section 111(a) (1), (2), or (4), unless such costs are incurred incident to any spill the effects of which the Secretary determines to be catastrophic.

(C) ADVANCES FOR OTHER COSTS.—The maximum aggregate amount advanced to the Response Trust Fund which is outstanding at any one time for the purpose of paying costs other than costs described in section 111(a) (1), (2), or (4) shall not exceed one-third of the amount of the estimate made under subparagraph (A).

(D) FINAL REPAYMENT.—No advance shall be made to the Response Trust Fund after September 30, 1985, and all advances to such Fund shall be repaid on or before such date.

(3) REPAYMENT OF ADVANCES.—Advances made pursuant to this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Trust Fund to which the advance was made. Such interest shall be at rates computed in the same manner as provided in subsection (b) and shall be compounded annually.

Subtitle C—Post-Closure Tax and Trust Fund

* * * * * * *

[SEC. 232/--POST-CLOSURE LIABILITY TRUST FUND.

[(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Post-closure Liability Trust Fund", consisting of such amounts as may be appropriated, credited, or transferred to such Trust Fund.

[(b) EXPENDITURES FROM POST-CLOSURE LIABILITY TRUST FUND.—Amounts in the Post-closure Liability Trust Fund shall be available only for the purposes described in sections 107(k) and 111(j) of this Act (as in effect on the date of the enactment of this Act).

[(c) ADMINISTRATIVE PROVISIONS.—The provisions of sections 222 and 223 of this Act shall apply with respect to the Trust Fund established under this section, except that the amount of any repayable advances outstanding at any one time shall not exceed $200,000,000.]

TITLE III—MISCELLANEOUS PROVISIONS

* * * * * * *

[EXPIRATION, SUNSET PROVISION

[SEC. 303. Unless reauthorized by the Congress, the authority to collect taxes conferred by this Act shall terminate on September 30, 1985, or when the sum of the amounts received in the Treasury under section 4611 and under 4661 of the Internal Revenue Code of 1954 total $1,380,000,000, which ever occurs first. The Secretary of the Treasury shall estimate when this level of $1,380,000,000 will be reached and shall by regulation, provide procedures for the termination of the tax authorized by this Act and imposed under sections 4611 and 4661 of the Internal Revenue Code of 1954.]

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Internal Revenue Code of 1954

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Subtitle D—Miscellaneous Excise Taxes

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CHAPTER 31—RETAIL EXCISE TAXES

* * * * * * *

Subchapter A—Special Fuels

* * * * * * *

SEC. 4041. IMPOSITION OF TAX.

(a) DIESEL FUEL AND SPECIAL MOTOR FUELS.—

(1) DIESEL FUELS.—* * *

* * * * * * *

(d) ADDITIONAL TAX ON DIESEL FUEL AND SPECIAL MOTOR FUELS TO FUND LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—

(1) DIESEL FUEL.—In addition to the taxes imposed by subsection (a), there is hereby imposed a tax of 0.2 cents a gallon on any liquid (other than a product taxable under section 4081)—

(A) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle for use as a fuel in such vehicle, or

(B) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid under subparagraph (A).

(2) SPECIAL MOTOR FUELS.—In addition to the taxes imposed by subsection (a), there is hereby imposed a tax of 0.2

cents a gallon on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081 or paragraph (1) of this subsection)—

(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A).

(3) TERMINATION.—The taxes imposed by this subsection shall not apply during any period during which no tax is imposed by section 4081(b).

~~(d)~~ **(e)** ADDITIONAL TAX.—If a liquid on which tax was imposed on the sale thereof is taxable at a higher rate under subsection (c)(1) of this section on the use thereof, there is hereby imposed a tax equal to the difference between the tax so imposed and the tax payable at such higher rate.

(f) EXEMPTION FOR FARM USE.—

(1) EXEMPTION.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used on a farm for farming purposes.

(2) USE ON A FARM FOR FARMING PURPOSES.—For purposes of paragraph (1) of this subsection, use on a farm for farming purposes shall be determined in accordance with paragraphs (1), (2), and (3) of section 6420(c).

(3) TERMINATION.—~~On~~ **Except with respect to the taxes imposed by subsection (d), on** and after October 1, 1988, paragraph (1) shall not apply.

(g) OTHER EXEMPTIONS.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section—

(1) on any liquid sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3));

(2) with respect to the sale of any liquid for the exclusive use of any State, any political subdivision of a State, or the District of Columbia, or with respect to the use by any of the foregoing of any liquid as a fuel;

(3) upon the sale of any liquid for export, or for shipment to a possession of the United States, and in due course so exported or shipped; and

(4) with respect to the sale of any liquid to a nonprofit educational organization for its exclusive use, or with respect to the use by a nonprofit educational organization of any liquid as a fuel.

For purposes of paragraph (4), the term "nonprofit educational organization" means an educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. ~~Paragraphs~~ **Except**

with respect to the taxes imposed by subsection (d), paragraphs (2) and (4) shall not apply on and after October 1, 1988.

* * * * * * *

CHAPTER 32—MANUFACTURERS EXCISE TAXES

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Subchapter A—Automotive and Related Items

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PART III—PETROLEUM PRODUCTS

* * * * * * *

Subpart A—Gasoline

* * * * * * *

SEC. 4081. IMPOSITION OF TAX.

~~(a) IN GENERAL.—There is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 9 cents a gallon.~~

~~(b) TERMINATION.—On and after October 1, 1988, the taxes imposed by this section shall not apply.~~

(a) TAX TO FUND HIGHWAY PROGRAM—

(1) IN GENERAL.—There is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 9 cents a gallon.

(2) TERMINATION.—On and after October 1, 1988, the tax imposed by paragraph (1) shall not apply.

(b) ADDITIONAL TAX TO FUND LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—

(1) IN GENERAL.—In addition to the tax imposed by subsection (a), there is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 0.2 cents a gallon.

(2) TERMINATION.—

(A) IN GENERAL.—The tax imposed by paragraph (1) shall not apply after the earlier of—

(i) September 30, 1990, or

(ii) the last day of the termination month.

(B) TERMINATION MONTH.—For purposes of subparagraph (A), the termination month is the 1st month as of the close of which the Secretary estimates that the net revenues from the taxes imposed by paragraph (1) and section 4041(d) are at least $850,000,000.

(C) NET REVENUES.—For purposes of subparagraph (B), the term "net revenues" means the excess of gross revenues over amounts payable by reason of section 9506(c)(2) (relating to transfer from Leaking Underground Storage Tank Trust Fund for certain repayments and credits).

* * * * * * *

Subchapter G—Exemptions, Registration, Etc.

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SEC. 4221. CERTAIN TAX-FREE SALES.

(a) GENERAL RULE.—Under regulations prescribed by the Secretary, no tax shall be imposed under this chapter (other than under section 4121) on the sale by the manufacturer (or under section 4051 on the first retail sale) of an article—

(1) for use by the purchaser for further manufacture, or for resale by the purchaser to a second purchaser for use by such second purchaser in further manufacture,

(2) for export, or for resale by the purchaser to a second purchaser for export,

(3) for use by the purchaser as supplies for vessels or aircraft,

(4) to a State or local government for the exclusive use of a State or local government, or

(5) to a nonprofit educational organization for its exclusive use, but only if such exportation or use is to occur before any other use.

Paragraphs (4) and (5) shall not apply to the tax imposed by section 4064. In the case of taxes imposed by section 4051, 4071, or ~~4081,~~ **4081(a)**, paragraphs (4) and (5) shall not apply on and after October 1, 1988.

* * * * * * *

CHAPTER 38—ENVIRONMENTAL TAXES

SUBCHAPTER A. Tax on petroleum.
SUBCHAPTER B. Tax on certain chemicals.
[SUBCHAPTER C. Tax on hazardous waste.**]**
Subchapter C. Hazardous waste management tax.
Subchapter D. Tax on certain imported substances.
Subchapter E. Superfund excise tax.

Subchapter A—Tax on Petroleum

* * * * * * *

SEC. 4611. IMPOSITION OF TAX.

(a) GENERAL RULE.—There is hereby imposed a tax of ~~0.79 cent~~ **3.85 cents** a barrel on—

(1) crude oil received at a United States refinery, and

(2) petroleum products entered into the United States for consumption, use, or warehousing.

(b) TAX ON CERTAIN USES AND EXPORTATION.—

(1) IN GENERAL.—If—

(A) any domestic crude oil is used in or exported from the United States, and

(B) before such use or exportation, no tax was imposed on such crude oil under subsection (a),

then a tax of ~~0.79 cent~~ **3.85 cents** a barrel is hereby imposed on such crude oil.

(2) EXCEPTION FOR USE ON PREMISES WHERE PRODUCED.—Paragraph (1) shall not apply any use of crude oil for extracting oil

or natural gas on the premises where such crude oil was produced.

[The following amendments to section 4611 (a) and (b) shall take effect January 1, 1986:]

SEC. 4611. IMPOSITION OF TAX.

(a) GENERAL RULE.—There is hereby imposed a tax ~~of~~ **3.85 cents** ~~a barrel~~ **at the rate specified in subsection (c)** on—

(1) crude oil received at a United States refinery, and

(2) petroleum products entered into the United States for consumption, use, or warehousing.

(b) TAX ON CERTAIN USES AND EXPORTATION.—

(1) IN GENERAL.—If—

(A) any domestic crude oil is used in or exported from the United States, and

(B) before such use or exportation, no tax was imposed on such crude oil under subsection (a),

then a tax ~~of~~ 0.79 cent **3.85 cents** a barrel is hereby imposed on such crude oil.

(2) EXCEPTION FOR USE ON PREMISES WHERE PRODUCED.—Paragraph (1) shall not apply any use of crude oil for extracting oil or natural gas on the premises where such crude oil was produced.

(c) PERSONS LIABLE FOR TAX.—

(1) CRUDE OIL RECEIVED AT REFINERY.—The tax imposed by subsection (a)(1) shall be paid by the operator of the United States refinery.

(2) IMPORTED PETROLEUM PRODUCT.—The tax imposed by subsection (a)(2) shall be paid by the person entering the product for consumption, use, or warehousing.

(3) TAX ON CERTAIN USES OR EXPORTS.—The tax imposed by subsection (b) shall be paid by the person using or exporting the crude oil, as the case may be.

~~(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, [1985] 1990, except that if on September 30, [1983] 1988, or September 30, [1984] 1989—~~

~~(1) the unobligated balance in the Hazardous Substance Response Fund as of such date exceeds [$900,000,000] $4,900,000,000 and~~

~~(2) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that such unobligated balance will exceed [$500,000,000] $2,700,000,000 on September 30 of the following year if no tax is imposed under section 4611 or 4661 during the calendar year following the date referred to above.~~

~~then no tax shall be imposed by this section during the first calendar year beginning after the date referred to in paragraph (1).~~

(d) APPLICATION OF TAXES.—The taxes imposed by this section shall apply after October 31, 1985, and before October 1, 1990.

[Effective January 1, 1986, the following amendments to section 4611 apply:]

(c) RATE OF TAX.—

(1) IN GENERAL.—The rate of the taxes imposed by this section is the sum of—

(A) the Hazardous Substance Superfund financing rate, and

(B) the Oil Spill Liability Trust Fund financing rate.

(2) RATES.—For purposes of paragraph (1)—

(A) the Hazardous Substance Superfund financing rate is 3.85 cents a barrel, and

(B) the Oil Spill Liability Trust Fund financing rate is 1.3 cents a barrel.

~~(c)~~(d) PERSONS LIABLE FOR TAX.—

(1) CRUDE OIL RECEIVED AT REFINERY.—The tax imposed by subsection (a)(1) shall be paid by the operator of the United States refinery.

(2) IMPORTED PETROLEUM PRODUCT.—The tax imposed by subsection (a)(2) shall be paid by the person entering the product for consumption, use, or warehousing.

(3) TAX ON CERTAIN USES OR EXPORTS.—The tax imposed by subsection (b shall be paid by the person using or exporting the crude oil, as the case may be.

~~(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30,~~ [1985] 1990, ~~except that if on September 30,~~ [1983] ~~1988, or September 30,~~ [1984] ~~[1989—~~

~~(1) the unobligated balanced in the Hazardous Substance Response Trust Fund as of such date exceeds~~ [$900,000,000] *~~$4,900,000,000~~* ~~and~~

~~(2) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that such unobligated balance will exceed~~ [$500,000,000] ~~$2,700,000,000 on September 30 of the following year if no tax is imposed under section 4611 or 4661 during the calendar year following the date referred to above,~~

~~then no tax shall be imposed by this section during the first calendar year beginning after the date referred to paragraph (1).~~

(e) APPLICATION OF TAXES.—

(1) SUPERFUND RATE.—The Hazardous Substance Superfund financing rate under subsection (c) shall apply after October 31, 1985, and before October 1, 1990.

(2) OIL SPILL RATE.—The Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1985, and before October 1, 1990.

* * * * * * *

(Subchapter B—Tax on Certain Chemicals

(Sec. 4661. Imposition of tax.
(Sec. 4662. Definition and special rules.

SEC. 4661. IMPOSITION OF TAX

(a) GENERAL RULE.—There is hereby imposed a tax on any taxable chemical sold by the manufacturer, producer, or importer thereof.

(b) AMOUNT OF TAX. *The amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:*)

~~*Subchapter B—Tax on Certain Chemicals*~~

~~*Sec. 4661. Imposition to tax.*~~
~~*Sec. 4662. Definitions and special rules.*~~

~~(a) GENERAL RULE.—There is hereby imposed a tax on any taxable chemical sold by the manufacturer, producer, or importer thereof.~~

~~(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:~~

[The tax is the following amount per ton

In the case of	
Acetylene	$4.87
Benzene	4.87
Butane	4.87
Butylene	4.87
Butadiene	4.87
Ethylene	4.87
Methane	3.44
Naphthalene	4.87
Propylene	4.87
Toluene	4.87
Xylene	4.87
Ammonia	2.64
Antimony	4.45
Antimony trioxide	3.75
Arsenic	4.45
Arsenic trioxide	3.41
Barium sulfide	2.30
Bromine	4.45
Cadmium	4.45
Chlorine	2.70
Chromium	4.45
Chromite	1.52
Potassium dichromate	1.69
Sodium dichromate	1.87
Cobalt	4.45
Cupric sulfate	1.87
Cupric oxide	3.59
Cuprous oxide	3.97
Hydrochloric acid	0.29
Hydrogen fluoride	4.23
Lead oxide	4.14
Mercury	4.45
Nickel	4.45
Phosphorus	4.45
Stannous chloride	2.85
Stannic chloride	2.12
Zinc chloride	2.22
Zinc sulfate	1.90
Potassium hydroxide	0.22
Sodium hydroxide	0.28
Sulfuric acid	0.26
Nitric acid	0.24]

~~*In the case of*~~	~~*The tax is the following amount per ton:*~~
~~*Acetylene*~~	~~*$4.87*~~
~~*Benzene*~~	~~*4.87*~~
~~*Butane*~~	~~*4.87*~~
~~*Butylene*~~	~~*4.87*~~
~~*Butadiene*~~	~~*4.87*~~
~~*Ethylene*~~	~~*4.87*~~
~~*Methane*~~	~~*3.44*~~
~~*Naphthalene*~~	~~*4.87*~~
~~*Propylene*~~	~~*4.87*~~
~~*Toluene*~~	~~*4.87*~~
~~*Xylene*~~	~~*4.87*~~
~~*Ammonia*~~	~~*2.64*~~
~~*Antimony*~~	~~*4.45*~~
~~*Antimony trioxide*~~	~~*3.75*~~
~~*Arsenic*~~	~~*4.45*~~

~~In the case of~~	~~The tax on the following amount per ton:~~
~~Arsenic trioxide~~	~~3.41~~
~~Barium sulfide~~	~~2.40~~
~~Bromine~~	~~4.45~~
~~Cadmium~~	~~4.45~~
~~Chlorine~~	~~2.70~~
~~Chromium~~	~~4.45~~
~~Chromite~~	~~1.52~~
~~Potassium dichromate~~	~~1.69~~
~~Sodium dichromate~~	~~1.87~~
~~Cobalt~~	~~4.45~~
~~Cupric sulfate~~	~~1.87~~
~~Cuprus oxide~~	~~3.59~~
~~Cuprous oxide~~	~~3.97~~
~~Hydrochloric acid~~	~~0.30~~
~~Hydrogen flouride~~	~~4.24~~
~~Lead oxide~~	~~4.14~~
~~Mercury~~	~~4.45~~
~~Nickel~~	~~4.45~~
~~Phosphorus~~	~~4.45~~
~~Stannous chloride~~	~~2.85~~
~~Stannic chloride~~	~~2.12~~
~~Zinc chloride~~	~~2.22~~
~~Zinc sulfate~~	~~1.90~~
~~Potassium hydroxide~~	~~0.22~~
~~Sodium Hydroxide~~	~~0.28~~
~~Sulfuric acid~~	~~0.26~~
~~Nitric acid~~	~~0.24~~

In the case of:	The tax (before any inflation adjustment) is the following amount per ton:
Organic substances	
Acetylene	$4.87
Benzene	4.87
Butadiene	4.87
Butane	4.87
Butylene	4.87
Ethylene	4.87
Methane	3.44
Napthalene	4.87
Propylene	4.87
Toluene	4.87
Xylene	9.81
Inorganic substances	
Ammonia	3.40
Antimony trioxide	4.45
Antimony	4.09
Arsenic	4.45
Arsenic trioxide	3.91
Barium sulfide	3.34
Bromine	4.45
Cadmium	4.45
Chlorine	3.34
Chromite	1.52
Chromiumm	4.45
Cobalt	4.45
Cupric oxide	4.01
Cupric sulfate	3.12
Cuprous oxide	4.20
Hydrochloric acid	0.75
Hydrogen flouride	4.34
Lead	2.15
Lead Oxide	4.29
Mercury	4.45

In the case of:	The tax (before any inflation adjustment) is the following per ton: amount
Nickel	4.45
Nitric acid	2.01
Phosphorous	4.45
Potassium dichromate	3.03
Potassium hydroxide	2.27
Sodium dichromate	3.12
Sodium hydroxide	1.94
Stannic chloride	3.25
Stannous chloride	3.62
Sulfuric acid	0.63
Zinc chloride	3.30
Zinc sulfate	3.13.

[(c) TERMINATION.—No tax shall be imposed under this section during any period during which no tax is imposed under section 4611(a).]

~~*(c) Termination.—No tax shall be imposed under this section during any period during which no tax is imposed under section 4611(a).*~~

(c) INFLATION ADJUSTMENTS IN AMOUNT OF TAX.—

(1) In General.—In the case of any taxable chemical sold in a calendar year after 1986, the amount of the tax imposed by subsection (a) shall be the amount determined under subsection (b) increased by the applicable inflation adjustment for such calendar year.

(2) APPLICABLE INFLATION ADJUSTMENT.—

(A) IN GENERAL.—In the case of a taxable chemical, the applicable inflation adjustment for the calendar year is the percentage (if any) by which—

(i) the applicable price index for the preceding calendar year, exceeds

(ii) the applicable price index for 1985.

(B) APPLICABLE PRICE INDEX.—For purposes of subparagraph (A), the applicable price index for any calendar year is the average for the months in the 12-month period ending on September 30 of such calendar year of—

(i) in the case of organic substances, the producer price index for basic organic chemicals as published by the Secretary of Labor, or

(ii) in the case of inorganic substances, the producer price index for basic inorganic chemicals as published by the Secretary of Labor.

(3) ROUNDING.—IF ANY INCREASE DETERMINED UNDER PARAGRAPH (1) IS NOT A MULTIPLE OF 1 CENT, SUCH INCREASE SHALL BE ROUNDED TO THE NEAREST MULTIPLE OF 1 CENT (OR, IF THE INCREASE DETERMINED UNDER PARAGRAPH (1) IS A MULTIPLE OF ½ OF 1 CENT, SUCH INCREASE SHALL BE INCREASED TO THE NEXT HIGHER MULTIPLE OF 1 CENT).

(d) APPLICATION OF TAXES.—The tax imposed by this section shall apply after October 31, 1985, and before October 1, 1990.

(SEC. 4662. DEFINITIONS AND SPECIAL RULES.

((a) DEFINITIONS.—For purposes of this subchapter—

((1) TAXABLE CHEMICAL.—Except as provided in subsection (b), the term "taxable chemical" means any substance—

(A) which is listed in the table under section 4661(b), and

(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehoursing.

(2) UNITED STATES.—The term "United States" has the meaning given such term by section 4612(a)(4).

(3) IMPORTER.—The term "importer" means the person entering the taxable chemical for consumption, use, or warehousing.

(4) TON.—The term "ton" means 2,000 pounds. In the case of any taxable chemical which is a gas, the term "ton" means the amount of such gas in cubic feet which is the equivalent of 2,000 pounds on a molecular weight basis.

(5) FRACTIONAL PART OF TON.—In the case of a fraction of a ton, the tax imposed by section 4661 shall be the same fraction of the amount of such tax imposed on a whole ton.

(b) EXCEPTIONS: OTHER SPECIAL RULES.—For purposes of this subchapter—

(1) METHANE OR BUTANE USED AS A FUEL.—Under regulations prescribed by the Secretary, methane or butane shall be treated as a taxable chemical only if it is used otherwise than as a fuel or in the manufacturer or production of any motor fuel, diesel fuel, aviation fuel, or jet fuel (and, for purposes of section 4661(a), the person so using it shall be treated as the manufacturer thereof).

(2) SUBSTANCES USED IN THE PRODUCTION OF FERTILIZER.—

(A) IN GENERAL.—In the case of nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia which is a qualified fertilizer substance, no tax shall be imposed under section 4661(a).

(B) QUALIFIED FERTILIZER SUBSTANCE.—For purposes of this section, the term "qualified fertilizer substance" means any substance—

(i) used in a qualified fertilizer use by the manufacturer, producer, or importer,

(ii) sold for use by any purchaser in a qualified fertilizer use, or

(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified fertilizer use.

(C) QUALIFIED FERTILIZER USE.—The term "qualified fertilizer use" means any use in the manufacture or production of fertilizer or for direct application as a fertilizer.

(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.

(3) SULFURIC ACID PRODUCED AS A BYPRODUCT OF AIR POLLUTION CONTROL.—In the case of sulfuric acid produced solely as a byproduct of and on the same site as air pollution control equipment, no tax shall be imposed under section 4661.)

~~*SEC. 4662. DEFINITIONS AND SPECIAL RULES.*~~

~~*(a) DEFINITIONS.—For purposes of this subchapter—*~~

~~*(1) TAXABLE CHEMICAL.—Except as provided in subsection (b), the term "taxable chemical" means any substance—*~~

~~*(A) which is listed in the table under section 4661(b), and*~~

~~*(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.*~~

~~*(2) UNITED STATES.—The term "United States" has the meaning given such term by section 4612(a)(4).*~~

~~*(3) IMPORTER.—The term "importer" means the person entering the taxable chemical for consumption, use, or warehousing.*~~

~~*(4) TON. The term "ton" means 2,000 pounds. In the case of any taxable chemical which is a gas, the term "ton" means the amount of such gas in cubic feet which is the equivalent of 2,000 pounds on a molecular weight basis.*~~

~~*(5) FRACTIONAL PART OF TON.—In the case of a fraction of a ton, the tax imposed by section 4661 shall be the same fraction of the amount of such tax . posed on a whole ton.*~~

~~*(b) EXCEPTIONS; OTHER SPECIAL RULES.—For purposes of this subchapter—*~~

~~*(1) METHANE OR BUTANE USED AS A FUEL.—Under regulations prescribed by the Secretary, methane or butane shall be treated as a taxable chemical only if it is used otherwise than as a fuel or in the manufacture, or production of any motor fuel, diesel fuel, aviation fuel, or jet fuel (and, for purposes of section 4611(a), the person so using it shall be treated as the manufacturer thereof).*~~

~~*(2) SUBSTANCES USED IN THE PRODUCTION OF FERTILIZER.—*~~

~~*(A) IN GENERAL.—In the case of a nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia which is a qualified fertilizer substance, no tax shall be imposed under section 4661(a).*~~

~~*(B) QUALIFIED FERTILIZER SUBSTANCE.—For purposes of this section, the term "qualified fertilizer substance" means any substance—*~~

~~*(i) used in a qualified fertilizer use by the manufacturer, producer, or importer,*~~

~~*(ii) sold for use by any purchaser in a qualified fertilizer use, or*~~

~~*(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified fertilizer use.*~~

~~*(C) QUALIFIED FERTILIZER USE.—The term "qualified fertilizer use" means any use in the manufacture or production of fertilizer or for direct application as a fertilizer.*~~

~~*(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.*~~

~~*(3) SULFURIC ACID PRODUCED AS A BYPRODUCT OF AIR POLLUTION CONTROL.—In the case of sulfuric acid produced solely as a byproduct of and on the same site as air pollution control equipment, no tax shall be imposed under section 4661.*~~

[(4) SUBSTANCES DERIVED FROM COAL.—For purposes of this subchapter, the term "taxable chemical" shall not include any substance to the extent derived from coal.]

~~*(4) SUBSTANCES DERIVED FROM COAL.—For purposes of this subchapter, the term "taxable chemical" shall not include any substance to the extent derived from coal.*~~

[(5)] (4)~~*SUBSTANCES USED IN THE PRODUCTION OF MOTOR FUEL, ETC.—*~~

(A) IN GENERAL.—In the case of any chemical described in subparagraph (D) which is a qualified fuel substance, no tax shall be imposed under section 4661(a).

(B) QUALIFIED FUEL SUBSTANCE.—For purposes of this section, the term "qualified fuel substance" means any substance—

(i) used in a qualified fuel use by the manufacturer, producer, or importer,

(ii) sold for use by any purchaser in a qualified fuel use, or

(iii) sold for resale by any purchaser for use, or resale for ultimate use, in qualified fuel use.

(C) QUALIFIED FUEL USE.—For purposes of this subsection, the term "qualified fuel use" means—

(i) any use in the manufacture or production of any motor fuel, diesel fuel, aviation fuel, or jet fuel, or

(ii) any use as such a fuel.

(D) CHEMICALS TO WHICH PARAGRAPH APPLIES.—For purposes of this subsection, the chemicals described in this subparagraph are acetylene, benzene, butylene, butadiene, ethylene, naphthalene, propylene, toluene, and xylene.

(E) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subpararaph (A), the first person who sells or uses such chemical other than a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.)

[(6)] SUBSTANCE HAVING TRANSITORY PRESENCE DURING REFINING PROCESS, ETC—

(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any taxable chemical described in subparagraph (B) by reason of the transitory presence of such chemical during any process of smelting, refining, or otherwise extracting any substance not subject to tax under section 4661(a).

(B) CHEMICALS TO WHICH SUBPARAGRAPH (A) APPLIES.—The chemicals described in this subparagraph are—

(i) barium sulfide, cupric sulfate, cupric oxide, cupropus oxide, lead, lead oxide, zinc chloride, and zinc sulfate, and

(ii) any solution or mixture containing any chemical described in clause (i).

(C) REMOVAL TREATED AS USE.—Nothing in subparagraph (A) shall be construed to apply to any chemical which is removed from or ceases to be part of any smelting, refining, or other extraction process.)

~~(5) SUBSTANCES USED IN THE PRODUCTION OF MOTOR FUEL, ETC.—~~

~~(A) IN GENERAL.—In the case of any chemical described in subparagraph (D) which is a qualified fuel substance, no tax shall be imposed under section 4661(a).~~

~~(B) QUALIFIED FUEL SUBSTANCE.—For purposes of this section, the term "qualified fuel substance" means any substance—~~

~~(i) used in a qualified fuel use by the manufacturer, producer, or importer,~~

~~(ii) sold for use by any purchaser in a qualified fuel use, or~~

~~(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified fuel use.~~

~~(C) QUALIFIED FUEL USE.—For purposes of this subsection, the term "qualified fuel use" means—~~

~~(i) any use in the manufacture or production of any motor fuel, diesel fuel, aviation fuel, or jet fuel, or~~

~~(ii) any use such a fuel.~~

~~(D) CHEMICALS TO WHICH PARAGRAPH APPLIES.For purposes of this subsection, the chemicals described in this subparagraph are acetylene, benzene, butylene, butadiene, ethylene, naphthalene, propylene, toluene, and xylene.~~

~~(E) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.~~

~~(6) SUBSTANCE HAVING TRANSITORY PRESENCE DURING REFINING PROCESS, ETC.—~~

~~(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any taxable chemical described in subparagraph (B) by reason of the transitory presence of such chemical during any process of smelting, refining, or otherwise extracting any substance not subject to tax under section 4661(a).~~

~~(B) Chemicals to which subparagrah (a) applies.—The chemicals described in this subparagraph are—~~

~~(i) barium sulfide, cuprice sulfate, cuprie oxide, cuprous oxide, lead oxide, zinc chloride, and zinc sulfate, and~~

~~(ii) any solution or mixture containing any chemical described in clause (i).~~

~~(C) REMOVAL TREATED AS USE.—Nothing in subparagraph (A) shall be construed to apply to any chemical which is removed from or ceases to be part of any smelting, refining, or other extraction process.~~

~~(7) SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—~~

~~(A) IN GENERAL.—In the case of nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, which is a qualified animal feed substance, no tax shall be imposed under section 4661(a).~~

~~(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term "qualified animal feed substance" means any substance—~~

~~(i) used in a qualified animal feed use by the manufacturer, producer, or importer,~~

~~*(ii) sold for use by any purchaser in a qualified animal feed use, or*~~

~~*(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.*~~

~~*(C) QUALIFIED ANIMAL FEED USE.—The term "qualified animal feed use" means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.*~~

~~*(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.*~~

(6) SPECIAL RULE FOR XYLENE.—Except in the case of any substance imported into the United States or exported from the United States, the term "xylene" does not include any separated isomer of xylene.

(7) SPECIAL RULE FOR NITRIC ACID USED IN PRODUCTION OF NITROCELLULOSE.—The tax imposed under section 4661 on nitric acid used by the producer of such acid in the production of nitrocellulose shall not exceed $0.24 per ton.

(8) RECYCLED CHROMIUM, COBALT, NICKEL, AND LEAD.—

(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any chromium, cobalt, nickel, or lead which is diverted or recovered in the United States from any solid waste as part of a recycling process (and not as part of the original manufacturing or production process).

(B) EXEMPTION NOT TO APPLY WHILE CORRECTIVE ACTION UNCOMPLETED.—Subparagraph (A) shall not apply during any period that required corrective action by the taxpayer is uncompleted.

(C) REQUIRED CORRECTIVE ACTION.—For purposes of subparagraph (B), required corrective action shall be treated as uncompleted during the period—

(i) beginning on the date that the corrective action is required by the Administrator or an authorized State pursuant to—

(I) a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, or

(II) a final order under section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

(ii) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

(D) SOLID WASTE.—For purposes of this paragraph, the term "solid waste" has the meaning given such term by section 1004 of the Solid Waste Disposal Act, except that such term shall not include any byproduct, coproduct, or other waste from any process of smelting, refining, or otherwise extracting any metal.

(9) SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—

(A) IN GENERAL.—In the case of—

(i) nitric acid,

(ii) sulfuric acid,

(iii) ammonia, or

(iv) methane used to produce ammonia, which is a qualified animal feed substance, no tax shall be imposed under section 4661(a).

(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term "qualified animal feed substance" means any substance—

(i) used in a qualified animal feed use by the manufacturer, producer, or importer,

(ii) sold for use by any purchaser in a qualified animal feed use, or

(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.

(C) QUALIFIED ANIMAL FEED USE.—The term "qualified animal feed use" means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.

(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.

[(c) USE BY MANUFACTURER, ETC., CONSIDERED SALE.—Except as provided in subsection (b), if any person manufactures, produces, or imports a taxable chemical and uses such chemical, then such person shall be liable for tax under section 4661 in the same manner as if such chemical were sold by such person.]

~~*(c) USE BY MANUFACTURER, ETC., CONSIDERED SALE.—Except as provided in subsection (b), if any person manufactures, produces, or imports a taxable chemical and uses such chemical then such person shall be liable for tax under section 4661 in the same manner as if such chemical were sold by such person.*~~

(c) USE AND CERTAIN EXCHANGES BY MANUFACTURER, ETC.—

(1) USE TREATED AS SALE.—Except as provided in subsections (b) and (e), if any person manufactures, produces, or imports any taxable chemical and uses such chemical, then such person shall be liable for tax under section 4661 in the same manner as if such chemical were sold by such person.

(2) SPECIAL RULES FOR INVENTORY EXCHANGES.—

(A) IN GENERAL.—Except as provided in this paragraph, in any case in which a manufacturer, producer, or importer of a taxable chemical exchanges such chemical as part of an inventory exchange with another person—

(i) such exchange shall not be treated as a sale, and

(ii) such other person shall, for purposes of section 4661, be treated as the manufacturer, producer, or importer of such chemical.

(B) REGISTRATION REQUIREMENT.—Subparagraph (A) shall not apply to any inventory exchange unless—

(i) both parties are registered with the Secretary as manufacturers, producers, or importers of taxable chemicals, and

(ii) the person receiving the taxable chemical has, at such time as the Secretary may prescribe, notified the manufacturer, producer, or importer of such person's registration number and the internal revenue district in which such person is registered.

(C) INVENTORY EXCHANGE.—For purposes of this paragraph, the term "inventory exchange" means an exchange in which 2 persons exchange property which is, in the hands of each person, property described in section 1221(1).

(d) REFUND OR CREDIT FOR CERTAIN USES.—

(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

(A) a tax under section 4661 was paid with respect to any taxable chemical, and

(B) such chemical was used by any person in the manufacture or production of any other substance) **[**the sale of which by such person would be taxable under such section,**]** **which is a taxable chemical,**

(then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by such section. In any case to which this paragraph applies, the amount of any such credit or refund shall not exceed the amount of tax imposed by such section on the other substance manufactured or produced **(or which would have been imposed by such section on such other substance but for subsection (b) or (e) of this section).**

(2) USE AS FERTILIZER.—Under regulations prescribed by the Secretary, if—

(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to make ammonia without regard to subsection (b)(2), and

(B) any person uses such substance aa a qualified fertilizer substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(2) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

(3) USE AS QUALIFIED FUEL.—Under regulations prescribed by the Secretary, if—

(A) a tax under section 4661 was paid with respect to any chemical described in subparagraph (D) of subsection) **[**(b)(5)**]** **(b)(4)** (without regard to subsection) **[**(b)(5)**]** **(b)(4)**, and

(B) any person uses such chemical as a qualified fuel substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection) [(b)(5)] (b)(4), (shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were overpayment of tax imposed by this section.)

~~(d) REFUND OR CREDIT FOR CERTAIN USES.—~~

~~(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—~~

~~(A) a tax under section 4661 was paid with respect to any taxable chemical, and~~

~~(B) such chemical was used by any person in the manufacture or production of any other substance the sale of which by such person would be taxable under such section,~~

~~then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by such section. In any cases to which this paragraph applies, the amount of any such credit or refund shall not exceed the amount of tax imposed by such section on the other substances manufactured or produced.~~

~~(2) USE AS FERTILIZER.—Under regulations prescribed by the Secretary, if—~~

~~(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to make ammonia without regard to subsection (b)(2), and~~

~~(B) any person uses such substance as a qualified fertilizer substance,~~

~~then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(2) shall be allowed as a credit of refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.~~

~~(3) USE AS QUALIFIED FUEL.—Under regulations prescribed by the Secretary, if—~~

~~(A) a tax under section 4661 was paid with respect to any chemical described in subparagraph (D) of subsection (b)(5) without regard to subsection (b)(5), and~~

~~(B) any person uses such chemical as a qualified fuel substance,~~

~~then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(5) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.~~

~~(4) USE IN THE PRODUCTION OF ANIMAL FEED.—Under regulations prescribed by the Secretary, if—~~

~~(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(7), and~~

~~(B) any person uses such substance as a qualified animal feed substance,~~

~~then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(7) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.~~

(4) USE IN THE PRODUCTION OF ANIMAL FEED.—Under regulations prescribed by the Secretary, if—

(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(9), and

(B) any person uses such substance as a qualified animal feed substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(9) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

(e) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

(1) TAX-FREE SALES.—

(A) IN GENERAL.—No tax shall be imposed under section 4661 on the sale by the manufacturer or producer of any taxable chemical for export, or for resale by the purchaser to a second purchaser for export.

(B) PROOF OF EXPORT REQUIRED.—Rules similar to the rules of section 4221(b) shall apply for purposes of subparagraph (A).

(2) CREDIT OR REFUND WHERE TAX PAID.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if—

(i) tax under section 4661 was paid with respect to any taxable chemical, and

(ii) such chemical was exported by any person,

credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

(B) CONDITION TO ALLOWANCE.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that he—

(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable chemical, or

(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

[(e)] (f) (DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provision of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 461.)

~~(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4661~~

[Subchapter C—Tax on Hazardous Wastes

Sec. 4681. Imposition of tax.
Sec. 4682. Definitions and special rules.

SEC. 4681. IMPOSITION OF TAX.

[(a) GENERAL RULE.—There is hereby imposed a tax on the receipt of hazardous waste at a qualified hazardous waste disposal facility.

[(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be equal to $2.13 per dry weight ton of hazardous waste.

SEC. 4682. DEFINITIONS AND SPECIAL RULES.

[(a) DEFINITIONS.—For purposes of this subchapter—

[(1) HAZARDOUS WASTE.—The term "hazardous waste" means any waste—

[(A) having the characteristics identified under section 3001 of the Solid Waste Disposal Act, as in effect on the date of the enactment of this Act (other than waste the regulation of which under such Act has been suspended by Act of Congress on that date), or

[(B) subject to the reporting or recordkeeping requirements of sections 3002 and 3004 of such Act, as so in effect.

[(2) QUALIFIED HAZARDOUS WASTE DISPOSAL FACILITY.—The term "qualified hazardous waste disposal facility" means any facility which has received a permit or is accorded interim status under section 3005 of the Solid Waste Disposal Act.

[(b) TAX IMPOSED ON OWNER OR OPERATOR.—The tax imposed by section 4681 shall be imposed on the owner or operator of the qualified hazardous waste disposal facility.

[(c) TAX NOT TO APPLY TO CERTAIN WASTES.—The tax imposed by section 4681 shall not apply to any hazardous waste which will not remain at the qualified hazardous waste disposal facility after the facility is closed.

[(d) APPLICATION OF SECTION.—The tax imposed by section 4681 shall apply to the receipt of hazardous waste after September 30, 1983, except that if, as of September 30 of any subsequent calendar year, the unobligated balance of the Post-closure Liability Trust Fund exceeds $200,000,000, no tax shall be imposed under such section during the following calendar year.]

Subchapter C—Hazardous Waste Management Tax

Sec. 4671. Waste management tax.
Sec. 4672. Exemptions; reduction of tax where prior taxable event.
Sec. 4673. Special rules for waste water treatment, incineration, etc.
Sec. 4674. Backup tax on generator.
Sec. 4675. Definitions and special rules.

SEC. 4671. WASTE MANAGEMENT TAX.

(a) IMPOSITION OF TAX.—There is hereby imposed a tax on—

(1) the receipt of hazardous waste at a qualified hazardous waste management unit,

(2) the receipt of hazardous waste for transport from the United States for the purpose of ocean disposal, and

(3) the exportation of hazardous waste from the United States.

(b) AMOUNT OF TAX.—

(1) IN GENERAL.—The amount of the tax imposed by subsection (a) with respect to each ton of hazardous waste shall be determined in accordance with the following table:

	If the taxable event is:	
For calendar year:	Land Disposal	Any Other Taxable Event
	The tax per ton is:	
1986	$27.00	$2.70
1987	30.00	3.00
1988	31.00	3.00
1989	36.00	3.00
1990	43.00	3.00.

(2) DEFINITIONS RELATING TO AMOUNT OF TAX.—For definition of—

(A) hazardous waste, see section 4675(a)(1), and

(B) land disposal and any other taxable event, see section 4675(a)(5).

(c) LIABILITY FOR TAX.—

(1) WASTE RECEIVED AT MANAGEMENT UNITS.—The tax imposed by subsection (a)(1) shall be paid by the owner or operator of the qualified hazardous waste management unit.

(2) WASTE RECEIVED FOR TRANSPORT FROM THE UNITED STATES.—The tax imposed by subsection (a)(2) shall be paid by the person holding the permit issued for transport for ocean disposal under section 102 of the Marine Protection, Research, and Sanctuaries Act of 1972.

(3) WASTE EXPORTED.—The tax imposed by subsection (a)(3) shall be paid by the exporter.

(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1990.

SEC. 4672. EXEMPTIONS; REDUCTION OF TAX WHERE PRIOR TAXABLE EVENT.

(a) EXEMPTION FOR CERTAIN REMOVAL AND REMEDIAL ACTIONS, ETC.—The tax imposed by section 4671 shall not apply to the receipt or export of hazardous waste pursuant to—

(1) a corrective action specified in—

(A) an initial or final order, or

(B) a proposed or final permit, issued by the Administrator under the Solid Waste Disposal Act or a State under a hazardous waste program authorized under section 3006 of such Act,

(2) a proposed or final closure plan approved by the Administrator or such a State,

(3) a removal or remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 which has been selected or approved by the Administrator, or

(4) an action to correct an emergency situation arising from a product spill which is certified by the Administrator to the Secretary as carrying out the purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(b) EXEMPTION FOR WASTE RECEIVED AT ANY FEDERAL FACILITY.—The tax imposed by section 4671 shall not apply to any hazardous waste received at any facility owned by the United States.

(c) REDUCTION IN TAX WHERE PRIOR TAXABLE EVENT.—

(1) IN GENERAL.—If—

(A) tax under section 4671 or 4674 was paid with respect to any hazardous waste, and

(B) tax under section 4671 is subsequently imposed on such waste (hereinafter in this subsection referred to as the "later taxable event"),

then the tax under section 4671 on the later taxable event shall be reduced by the amount determined under paragraph (2).

(2) AMOUNT OF REDUCTION.—The amount of the reduction determined under this paragraph is the product of—

(A) the weight of hazardous waste involved in the later taxable event, multiplied by

(B) the lesser of—

(i) the highest rate of tax paid under section 4671 or 4674 with respect to any prior taxable event involving such waste (determined without regard to this subsection), or

(ii) the rate of tax imposed by section 4671 with respect to the later taxable event (as so determined).

SEC. 4673. SPECIAL RULES FOR WASTE WATER TREATMENT, INCINERATION, ETC.

(a) EXEMPTION FOR WASTE RECEIVED AT CERTAIN WASTE WATER TREATMENT UNITS.—Except as provided in subsection (e), the tax imposed by section 4671 shall not apply to hazardous waste received at any waste water treatment unit.

(b) INCINERATION, ETC. WITHIN 90 DAYS OF RECEIPT.—

(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

(A) tax under section 4671 was paid with respect to the receipt of any hazardous waste at any qualified hazardous waste management unit or for transport described in section 4671(a)(2), and

(B) such waste is incinerated on land (or the equivalent of incineration on land) by any person within 90 days after the date of the first receipt referred to in subparagraph (A),

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4671.

(2) EQUIVALENT OF INCINERATION.—For purposes of subparagraph (A), a method, technique, or process shall be treated as the equivalent of incineration on land if—

(A) such method, technique, or process meets detailed performance standards established by the Environmental Protection Agency, and

(B) such standards require a destruction and removal efficiency for the hazardous waste involved at least equivalent to the destruction and removal efficiency applicable to incineration on land.

(c) QUALIFIED CHEMICAL FUELS OR SOLVENTS.—

(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

(A) tax under section 4671 was paid with respect to any hazardous waste,

(B) such waste is used by any person in the production of any qualified chemical fuel or solvent, and

(C) such fuel or solvent is by such person sold for use or used in any industrial or commercial use,

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4671.

(2) QUALIFIED CHEMICAL FUEL OR SOLVENT.—For purposes of subparagraph (A), the term "qualified chemical fuel or solvent" means any chemical or solvent which is determined by the Administrator as not being a hazardous waste.

(d) RECYCLING OF BATTERIES.—Under regulations prescribed by the Secretary, if—

(1) tax under section 4671 was paid with respect to the receipt of any battery at a qualified hazardous waste management unit, and

(2) the recycling of such battery begins at such a unit by any person within 90 days after the date of the first receipt of such battery at any qualified hazardous waste management unit,

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4671.

(e) TAX TO APPLY WHILE CORRECTIVE ACTION NOT COMPLETED.—

(1) IN GENERAL.—The exemption provided by subsection (a) shall not apply (and no credit or refund shall be allowed under this section) with respect to any activity conducted at a facility (or part thereof) during the period that required corrective action remains uncompleted with respect to such facility (or part).

(2) REQUIRED CORRECTIVE ACTION.—For purposes of paragraph (1), required corrective action shall be treated as uncompleted during the period—

(A) beginning on the date that the corrective action is required by the Administrator or an authorized State pursuant to a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, and

(B) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

(3) RATE OF TAX WITH RESPECT TO WASTE WATER TREATMENT.—The rate of tax imposed by section 4671 by reason of this subsection with respect to hazardous waste received at any waste water treatment unit shall be 15 cents per ton.

SEC. 4674. BACKUP TAX ON GENERATOR.

(a) IMPOSITION OF TAX.—There is hereby imposed a tax on each ton of hazardous waste which, as of the close of the 270-day period beginning on the day after the day on which such waste was generated, has not been—

(1) received at a qualified hazardous waste management unit,

(2) received for transport from the United States for the purpose of ocean disposal, or

(3) exported from the United States.

(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be the rate of tax applicable to land disposal under section 4671 at the end of the 270-day period described in subsection (a).

(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the generator of the hazardous waste.

(d) EXEMPTIONS.—

(1) SMALL GENERATORS.—The tax imposed by subsection (a) shall not apply to hazardous waste generated during any month if the generator of such waste does not generate more than 100 kilograms of hazardous waste during such month.

(2) WASTE LEGALLY DISPOSED OF IN PUBLICLY OWNED TREATMENT WORKS.—The tax imposed by subsection (a) shall not apply to hazardous waste disposed of in any publicly owned treatment works if the disposal of such waste is not in violation of Federal, State, or local law.

(3) OTHER EXEMPTIONS TO APPLY.—The exemptions provided by subsections (a) and (b) of section 4672 shall apply to the tax imposed by subsection (a).

(4) EXEMPTIONS UNDER REGULATIONS; APPLICATION OF LOWER RATE.—The Secretary may prescribe regulations which provided exemptions from the tax imposed by subsection (a) (or the application of a lower rate) which are not inconsistent with the purposes of this section.

(e) COORDINATION WITH REDUCTION OF TAX WHERE PRIOR TAXABLE EVENT.—For purposes of subsection (c) of section 4672, any tax paid under this section shall be treated as paid under section 4671.

(f) GENERATOR.—For purposes of this section, the term "generator" means the person whose act or process produces the hazardous waste.

(g) TERMINATION.—No tax shall be imposed by this section on waste generated after September 30, 1990.

SEC. 4675. DEFINITIONS AND SPECIAL RULES.

(a) DEFINITIONS.—For purposes of this subchapter—

(1) HAZARDOUS WASTE.—The term "hazardous waste" means any waste which is listed or identified as of the date of the enactment of the Superfund Revenue Act of 1985 under section 3001 of the Solid Waste Disposal Act. Rainwater shall

not be treated as hazardous waste unless mixed with hazardous waste (as defined in the preceding sentence).

(2) QUALIFIED HAZARDOUS WASTE MANAGEMENT UNIT.—The term "qualified hazardous waste management unit" means the specified area of land or structure—

(A) which isolates the hazardous wastes within a qualified hazardous waste facility, and

(B) which is subject to the requirements for obtaining interim status or a final permit under subtitle C of the Solid Waste Disposal Act.

(3) QUALIFIED HAZARDOUS WASTE MANAGEMENT FACILITY.—The term "qualified hazardous waste management facility" means any facility, as defined under subtitle C of the Solid Waste Disposal Act, which has received a permit or in accorded interim status under—

(A) section 3005 of the Solid Waste Disposal Act, or

(B) a State program authorized under section 3006 of such Act.

(4) OCEAN DISPOSAL.—The term "ocean disposal" means the incineration or dumping of hazardous waste over or into ocean waters or the waters described in section 101(b) of the Marine Protection, Research, and Sanctuaries Act of 1972, pursuant to section 102 of such Act.

(5) DEFINITIONS RELATING TO AMOUNT OF TAX.—

(A) LAND DISPOSAL.—The term "land disposal" means a taxable event described in section 4671(a)(1) with respect to a qualified hazardous waste management unit which is a landfill, surface impoundment, waste pile, or land treatment unit.

(B) LANDFILL, ETC.—For purposes of subparagraph (A), the terms "landfill", "surface impoundment", "waste pile" and "land treatment unit" have the respective meanings given such terms in regulations prescribed by the Administrator pursuant to sections 3004 and 3005 of the Solid Waste Disposal Act.

(C) OTHER TAXABLE EVENT.—The term "any other taxable event" means—

(i) a taxable event described in section 4671(a)(1) which is not land disposal, and

(ii) a taxable event described in paragraph (2) or (3) of section 4671(a).

(6) WASTE WATER TREATMENT UNIT.—The term "waste water treatment unit" means any qualified hazardous waste management unit which is an integral and necessary part of a treatment system—

(A) for which a permit is required under section 402 of the Clean Water Act,

(B) which is subject to pretreatment standards under subsection (b) or (c) of section 307 of the Clean Water Act, or

(C) which is a zero discharge treatment system—

(i) which, if the system discharged into navigable waters, would comply with effluent limitation guide-

lines prescribed under paragraph (2) or (4) of section 304(b) of the Clean Water Act,

(ii) which, if the system discharged into a publicly owned treatment works, would comply with the pretreatment standards described in subparagraph (B), or

(iii) if no such guidelines or standards have been prescribed, which employs biological treatment.

The term "waste water treatment unit" shall not include any qualified hazardous waste management unit which receives for storage or final disposition concentrated treatment residues resulting from wastewater treatment.

(7) ADMINISTRATOR.—The "Administrator" means the Administrator of the Environmental Protection Agency.

(8) UNITED STATES.—The term "United States" has the meaning given such term by section 4612(a)(4).

(9) TON.—The term "ton" means 2,000 pounds.

(10) FRACTIONAL PART OF TON.—In the case of a fraction of a ton, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole ton.

(b) TREATMENT OF CONTAINERS, ETC. WHICH ARE RELATED TO INJECTION UNITS.—For purposes of this subchapter—

(1) any container, tank, or surface impoundment which, with respect to any hazardous waste, is used to treat or store such waste before underground injection of such waste (whether or not the waste when injected is hazardous waste) into an injection well, and

(2) the injection well into which such waste is injected,

shall be treated as a single hazardous waste management unit.

(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsection (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter.

Subchapter D—Tax on Certain Imported Substances

Sec. 4677. Imposition of tax.
Sec. 4678. Definitions and special rules.

SEC. 4677. IMPOSITION OF TAX.

(a) GENERAL RULE.—There is hereby imposed a tax on any taxable substance sold or used by the importer thereof.

(b) AMOUNT OF TAX.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the tax imposed by subsection (a) with respect to any taxable substance shall be the amount of the tax which would have been imposed by section 4661 on the taxable chemicals or petroleum used as materials or process fuel in the manufacture or production of such substance if such taxable chemicals or petroleum had been sold in the United States for use in the manufacture or production of such taxable substance.

(2) RATE WHERE IMPORTER DOES NOT FURNISH INFORMATION TO SECRETARY.—If the importer does not furnish to the Secretary (at such time and in such manner as the Secretary

shall prescribe) sufficient information to determine under paragraph (1) the amount of the tax imposed by subsection (a) on any taxable substance, the amount of the tax imposed on such taxable substance shall be 5 percent of the appraised value of such substance as of the time such substance was entered into the United States for consumption, use, or warehousing.

(c) EXEMPTIONS FOR SUBSTANCES TAXED UNDER SECTIONS 4611 AND 4661.—No tax shall be imposed by this section on the sale or use of any substance if tax is imposed on such sale or use under section 4611 or 4661.

(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1990.

SEC. 4678. DEFINITIONS AND SPECIAL RULES.

(a) TAXABLE SUBSTANCE.—For purposes of this subchapter—

(1) IN GENERAL.—The term "taxable substance" means any substance which, at the time of sale or use by the importer, is listed as a taxable substance by the Secretary for purposes of this subchapter.

(2) DETERMINATION OF SUBSTANCES ON LIST.—A substance shall be listed under paragraph (1) if the Secretary determines, in consultation with the Administrator of the Environmental Protection Agency and the Commissioner of Customs, that such substance generally has more than 50 percent of its value derived (as materials or as process fuel) from taxable chemicals or petroleum (determined on the basis of the predominant method of production).

(3) MODIFICATIONS TO LIST.—The Secretary may add or remove substances from the list under paragraph (2) as necessary to carry out the purposes of this subchapter.

(b) OTHER DEFINITIONS.—For purposes of this subchapter—

(1) IMPORTER.—The term "importer" means the person entering the taxable substance for consumption, use, or warehousing.

(2) TAXABLE CHEMICALS; UNITED STATES.—The terms "taxable chemical" and "United States" have the respective meanings given such terms by section 4662(a).

(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4677.

Subchapter E—Superfund Excise Tax

Part I. Imposition of tax.
Part II. Taxable transaction.
Part III. Taxable amount; exempt transactions; credit against tax.
Part IV. Administration.
Part V. Definitions; special rules.

PART I—IMPOSITION OF TAX

Sec. 4681. Imposition of tax.
Sec. 4682. Termination.

SEC. 4681. IMPOSITION OF TAX.

(a) GENERAL RULE.—A tax is hereby imposed on each taxable transaction.

(b) AMOUNT OF TAX.—Except as otherwise provided in this subchapter, the amount of the tax shall be .08 percent of the taxable amount.

SEC. 4682. TERMINATION.

(a) IN GENERAL.—No tax shall be imposed under section 4681 after December 31, 1990.

(b) TERMINATION IF $10,000,000,000 OF SUPERFUND TAXES COLLECTED.—

(1) ESTIMATES BY THE SECRETARY.—The Secretary as of the close of each calendar quarter shall make an estimate of the aggregate amount appropirated or credited to the Hazardous Substance Superfund (other than by reason of paragraphs (3), (4), and (5) of section 9505 (b)) during the period beginning on November 1, 1985, and ending on September 30, 1990.

(2) TERMINATION IF $10,000,000,000 CREDITED BEFORE SEPTEMBER 30, 1990.—If the Secretary estimates under paragraph (1) that more than $10,000,000,000 of the amount referred to in paragraph (1) will be credited to the Fund as of the close of any calendar quarter before September 30, 1990, no tax shall be imposed under section 4681 after such quarter.

(c) PROCEDURES FOR TERMINATION.—

(1) PRORATION OVER TAXABLE PERIOD.—In the case of any taxable period which begins and ends after the termination date determined under subsection (a) or (b), the tax imposed by section 4681 on taxable transactions described in paragraph (1) of section 4683(a) (and the credit allowable under section 4687) for such taxable period shall be equal to an amount which bears the same ratio to the amount of such tax (and credit) for such taxable period (determined without regard to the termination) as—

(A) the number of days in such taxable period up to and including the date of termination, bears to

(B) the number of days in such taxable period.

(2) TAX ON IMPORTS.—The tax imposed by section 4681 on taxable transactions described in paragraph (2) of section 4683(a) shall not apply to property imported after the termination date determined under subsection (a) or (b).

(3) OTHER PROCEDURES.—The Secretary shall by regulation provide such procedures for a termination under this section as the Secretary determines necessary.

PART II TAXABLE TRANSACTION

Sec. 4683. Taxable transaction.
Sec. 4684. Taxable person.

SEC. 4683. TAXABLE TRANSACTION.

(a) IN GENERAL.—For purposes of this subchapter except as otherwise provided in this subchapter, the term "taxable transaction" means—

(1) the sale or leasing of tangible personal property by a taxable person in connection with a trade or business, or

(2) the importing of tangible personal property into the United States by a taxable person.

(b) EXEMPT TRANSACTIONS.—

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For exempt transactions, see section 4686.

SEC. 4684. TAXABLE PERSON

(a) GENERAL RULE.—Except as otherwise provided in this subchapter, for purposes of this subchapter, the term "taxable person" means—

(1) in the case of a taxable transaction described in paragraph (1) of section 4683(a)—

(A) the manufacturer of the tangible personal property, or

(B) any person who included the costs of the tangible personal property in such person's qualified inventory costs, and

(2) in the case of a taxable transaction described in paragraph (2) of section 4683(a), the importer of the tangible personal property.

(b) GOVERNMENT ENTITIES AND EXEMPT ORGANIZATIONS NOT TAXABLE PERSONS.—For purposes of this subchapter, the term "taxable person" shall not include—

(1) the United States, any State or political subdivision thereof, the District of Columbia, a Commonwealth or possession of the United States, or any agency or instrumentality of the foregoing, and

(2) any organization which is exempt from taxation under chapter 1 by reason of section 501(a); except that this paragraph shall not apply with respect to any transaction which is part of an unrelated trade or business (within the meaning of section 513) of such organization.

PART II—TAXABLE AMOUNT; EXEMPT TRANSACTIONS; CREDIT AGAINST TAX

Sec. 4685. Taxable amount.
Sec. 4686. Exempt transactions.
Sec. 4687. Credit against tax on sales and leases.

SEC. 4685. TAXABLE AMOUNT

(a) SALE.—For purposes of this subchapter, the taxable amount for any sale shall be the price (in money or fair market value of other consideration) charged the purchaser of the property by the seller thereof—

(1) including items payable to the seller with respect to such transaction, but

(2) excluding the tax imposed by section 4681 or chapter 32 with respect to such transaction.

(b) IMPORTS.—For purposes of this subchapter, the taxable amount in the case of any import shall be the sum of—

(1) the customs value, plus

(2) customs duties and any other duties which may be imposed.

If there is no such customs value, fair market value (determined in a manner similar to the determination of customs value) shall be substituted for customs value in paragraph (1).

(c) LEASES.—For purposes of this subchapter, the taxable amount in the case of any lease shall be the gross payments under the lease.

(d) CONTAINERS, PACKING, AND TRANSPORTATION CHARGES; CONSTRUCTIVE SALES PRICE.—Under regulations, rules similar to the rules of subsections (a) and (b) of section 4216 (relating to containers, packing, and transportation charges, etc., and constructive sales price) shall apply in computing the taxable amount.

(e) SPECIAL RULE WHERE SALE OR LEASE PAYMENTS RECEIVED IN MORE THAN 1 TAXABLE PERIOD.—

(1) SALES.—In the case of a sale of any tangible personal property where the consideration is received by the seller in more than 1 taxable period—

(A) in the case of the seller, the taxable amount for each such taxable period shall be the portion of the taxable amount received during such period, and

(B) in the case of the buyer, the cost of such property shall be taken into account for purposes of determining qualified inventory costs only when paid.

(2) LEASES.—In the case of a lease with a term which includes more than 1 taxable period, the taxable amount for each taxable period shall include the gross lease payments received by the taxable person during such taxable period.

SEC. 4686. EXEMPT TRANSACTIONS.

(a) IMPORTS OF $10,000 OR LESS.—No tax shall be imposed under section 4681 on any tangible personal property imported into the United States as part of a shipment (within the meaning of section 498(a)(1) of the Tariff Act of 1930; 19 U.S.C. 1498(a)(1)) the aggregate taxable amount of which is $10,000 or less.

(b) EXPORTS.—Under regulations, no tax shall be imposed under section 4681 on the sale of any property which is to be exported from the United States.

(c) CERTAIN EXEMPT PRODUCTS.—

(1) IN GENERAL.—In the case of any exempt product—

(A) no tax shall be imposed by section 4681 with respect to such product, and

(B) any qualified inventory costs allocable to such product shall not be taken into account under section 4687.

(2) EXEMPT PRODUCT.—For purposes of this section—

(A) IN GENERAL.—The term "exempt product" means—

(i) any food product,

(ii) any unprocessed agricultural or fishery product,

(iii) any unprocessed timber, and

(iv) any fertilizer product.

(B) FOOD PRODUCT.—The term "food product" means—

(i) any food or nonalcoholic drink for humans or animals, and

(ii) any material, component, or packaging of such a food or drink.

(C) FERTILIZER PRODUCT.—The term "fertilizer product" means—

(i) any product to be used as a fertilizer, and

(ii) any material, component, or packaging of such a product.

SEC. 4687. CREDIT AGAINST TAX ON SALES AND LEASES.

(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by section 4681 for any taxable period on taxable transactions described in paragraph (1) of section 4683(a) an amount equal to the greater of—

(1) .08 percent of the qualified inventory costs of the taxable person for the taxable period, or

(2) $8,000.

(b) LIMITATION BASED ON TAX LIABILITY; CARRYFORWARD OF EXCESS CREDIT.—

(1) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by subsection (a) for any taxable period shall not exceed the liability for tax imposed by section 4681 on taxable transactions described in paragraph (1) of section 4683(a) for such period.

(2) CARRYFORWARD OF EXCESS CREDIT.—If the credit allowable under subsection (a)(1) for any taxable period exceeds the limitation imposed by paragraph (1), such credit shall be carried to the succeeding taxable period and added to the credit allowable under subsection (a)(1) for such succeeding taxable period.

(c) QUALIFIED INVENTORY COSTS.—For purposes of this subchapter—

(1) IN GENERAL.—Except as provided in paragraph (2), the term "qualified inventory costs" means, with respect to any taxable period, the costs of tangible personal property which—

(A) are allocable to the inventory of a manufacturer under the full absorption method of accounting under section 471, and

(B) are paid or incurred by the taxable person during such taxable period.

(2) SPECIAL RULES.—For purposes of this subsection—

(A) EXPENSING RATHER THAN DEPRECIATION OR AMORTIZATION. If any portion of an allowance for depreciation or amortization with respect to any property would be allocable to the inventory of a manufacturer under the full absorption method of accounting, a like portion of the cost of such property shall be included in the qualified inventory costs of the taxpayer for the taxable period in which such property is placed in service. Treatment under the preceding sentence shall be in lieu of any allowance for depreciation or amortization.

(B) PROPERTY MANUFACTURED FOR LEASE BY MANUFACTURER.—For purposes of computing qualified inventory costs, any tangible personal property which is manufactured for lease by the manufacturer shall be treated in the same manner as property which is manufactured for sale by the manufacturer.

(d) CARRYFORWARD NOT ALLOWED FOR COSTS DURING PERIODS FOR WHICH RETURN NOT FILED.—

(1) IN GENERAL.—In determining the amount allowable as a carryforward under subsection (b)(2), the qualified inventory costs of the taxable person during any taxable period shall be taken into account only if such person files a timely return (determined with regard to extensions) of the tax imposed by section 4681 for such period.

(2) BASIS ADJUSTMENT FOR INCOME TAX PURPOSES.—For purposes of subtitle A, if the cost of any property is taken into account in determining the amount of the qualified inventory costs of the taxable person for any taxable period, the adjusted basis of such property shall be reduced by an amount equal to .08 percent of the qualified inventory costs of the taxpayer attributable to such property.

PART IV—ADMINISTRATION

Sec. 4688. Liability for tax.
Sec. 4689. Return requirement; taxable period; depositary requirements.
Sec. 4690. Regulations.

SEC. 4688. LIABILITY FOR TAX.

The taxable person shall be liable for the tax imposed by section 4681.

SEC. 4689. RETURN REQUIREMENT; TAXABLE PERIOD; DEPOSITARY REQUIREMENTS.

(a) RETURN REQUIREMENT.—

(1) IN GENERAL.—Except as provided in this subsection, each taxable person shall file a return of the tax imposed by section 4681 for any taxable period not later than—

(A) the due date (including extensions) for filing the taxpayer's return of tax under chapter 1, or

(B) if no return of tax is required under chapter 1—

(i) April 15 in the case of a taxpayer other than a corporation, and

(ii) March 15 in the case of a corporation,

including extensions granted for purposes of this subchapter.

(2) EXCEPTION FOR TAXABLE TRANSACTIONS OF $10,000,000 OR LESS.—A taxable person shall not be required to file a return for any taxable period for taxable transactions described in paragraph (1) of section 4683(a) if the aggregate taxable amount for such transactions is $10,000,000 or less. For purposes of the preceding sentence, there shall not be taken into account any transaction exempt from the tax imposed by section 4681 by reason of section 4686(c).

(3) OTHER EXCEPTIONS.—The Secretary may by regulation exempt any taxable person from the requirement of paragraph (1).

(b) TAXABLE PERIOD.—For purposes of this subchapter, the term "taxable period" means—

(1) the taxable person's taxable year for purposes of chapter 1, or

(2) if there is no taxable year for purposes of chapter 1, the calendar year.

(c) DEPOSITORY REQUIREMENTS.—

(1) IN GENERAL.—In the case of any person with respect to whom tax is imposed under section 4681 for any taxable period on any taxable transaction described in paragraph (1) of section 4683(a), such person shall make quarterly deposits of the estimated amount of such tax for the succeeding taxable period.

(2) SPECIAL RULE FOR 1ST TAXABLE PERIOD.—Notwithstanding paragraph (1), a deposit shall be required for the 1st taxable period of any taxable person to which this subchapter applies if the gross receipts of such person during the 1st taxable year ending before such taxable period from the sale or leasing of tangible personal property manufactured by such person exceed $50,000,000.

SEC. 4690. REGULATIONS.

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subchapter.

PART V—DEFINITIONS; SPECIAL RULES

Sec. 4691. Definitions; special rules.

SEC. 4691. DEFINITIONS; SPECIAL RULES.

(a) MANUFACTURER. For purposes of this subchapter—

(1) IN GENERAL.—The term "manufacturer" includes any producer of tangible personal property (including raw materials).

(2) CERTAIN ACTIVITIES NOT TAKEN INTO ACCOUNT.—A person shall not be treated as a manufacturer with respect to any property merely by reason of—

transportation of such property, or

(B) INCIDENTAL PREPARATION OF PROPERTY BY A RETAILER OR WHOLESALER (INCLUDING ROUTINE ASSEMBLAGE).

(b) SPECIAL RULE FOR TAXPAYERS UNDER COMMON CONTROL.—

(1) IN GENERAL.—All persons which are—

(A) members of the same controlled group of corporations (within the meaning of section 52(a)), or

(B) under common control (within the meaning of section 52(b)),

shall be treated as 1 person for purposes of the $8,000 amount specified in section 4687(a)(2), the $10,000,000 amount specified in section 4689(a)(2), and the $50,000,000 amount specified in section 4689(c)(2).

(2) ALLOCATION OF AMOUNTS.—The amounts specified in paragraph (1) shall be allocated among persons described in paragraph (1) in such manner as the Secretary may prescribe by regulations.

(c) PERSON.—For purposes of this subchapter, the term "person" includes any governmental entity.

(d) UNITED STATES.—For purposes of this subchapter, the term "United States" has the meaning given such term by section 4612(a)(4).

(e) TANGIBLE PERSONAL PROPERTY.—For purposes of this subchapter, the term "tangible personal property" includes gases.

(f) IMPORT.—Except as otherwise provided in regulations, for purposes of this subchapter, the term "import" means the entering, or withdrawal from warehouse, for consumption.

(g) TAX ON IMPORT IN ADDITION TO DUTY.—The tax imposed by section 4681 on the importing of any tangible personal property shall be in addition to any duty imposed on such importation.

(h) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4681.

(i) SPECIAL RULE FOR SHORT TAXABLE PERIODS.—In the case of a taxable period which is less than 12 months, there shall be substituted for the dollar amounts otherwise applicable under sections 4687(a)(2) and 4689(a)(2) (determined after the application of subsection (b)) an amount which bears the same ratio to such amounts as the number of days in the taxable period bears to 365.

(j) SALE TO INCLUDE CERTAIN EXCHANGES AND TRANSFERS.—For purposes of this subchapter, except as provided in regulations, the term "sale" includes any exchange or other transfer, other than a gift (within the meaning of section 102 or section 170).

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Subtitle F—Procedure and Administration

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CHAPTER 61—INFORMATION AND RETURNS

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Subchapter A—Returns and Records

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PART III—INFORMATION RETURNS

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Subpart A—Information Concerning Persons Subject to Special Provisions

Sec. 6031. Return of partnership income.

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Sec. 6039E. Information with respect to management tax on hazardous waste.

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SEC. 6039E. INFORMATION WITH RESPECT TO MANAGEMENT TAX ON HAZARDOUS WASTE.

Each person on whom a tax is imposed under subchapter C of chapter 38 shall (at such time and in such manner as the Secretary may require) submit to the Secretary such information as the Secretary may require, including information which such person is required to provide the Administrator of the Environmental

Protection Agency under the Solid Waste Disposal Act. To the extent provided in regulations prescribed by the Secretary, the preceding sentence shall also apply to persons not described therein with respect to information which the Secretary determines is necessary or appropriate to the administration of such subchapter.

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CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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Subchapter B—Rules of Special Application

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SEC. 6420. GASOLINE USED ON FARMS.

(a) GASOLINE.— * * *

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(h) TERMINATION.—~~This~~ **Except with respect to taxes imposed by section 4081(b), this** section shall apply only with respect to gasoline purchased before October 1, 1988.

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SEC. 6421. GASOLINE USED FOR CERTAIN NONHIGHWAY PURPOSES OR BY LOCAL TRANSIT SYSTEMS.

(a) NONHIGHWAY USES.— * * *

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(h) EFFECTIVE DATE.—~~This~~ **Except with respect to taxes imposed by section 4081(b), this** section shall apply only with respect to gasoline purchased before October 1, 1988.

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SEC. 6427. FUELS NOT USED FOR TAXABLE PURPOSES.

(a) NONTAXABLE USES.—* * *

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(f) GASOLINE USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

(1) IN GENERAL.—Except as provided in subsection (j), if any gasoline on which a tax is imposed by section ~~4081~~ **4081(a)** at the rate of 9 cents a gallon is used by any person in producing a mixture described in section 4081(c) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the amount determined at the rate of 5⅔ cents a gallon. The preceding sentence shall not apply with respect to any mixture sold or used after December 31, 1992.

(2) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any gasoline with respect to which an amount is payable under

subsection (d) or (e) of this section or under section 6420 or 6421.

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(m) TERMINATION OF SUBSECTIONS (a), (b), (c), (d), AND (g).—~~Subsection~~ **Except with respect to taxes imposed by sections 4041(d) and 4081(b), subsections** (a), (b), (c), (d), and (g) shall only apply with respect to fuels purchased before October 1, 1988.

(n) PAYMENTS FOR TAXES IMPOSED BY SECTION 4041(d).—For purposes of subsections (a), (b), and (c), the taxes imposed by section 4041(d) shall be treated as imposed by section 4041(a).

~~(n)~~ **(o)** CROSS REFERENCES.—

(1) For civil penalty for excessive claims under this section, see section 6675.

(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(3) For treatment of an Indian tribal government as a State (and a subdivision of an Indian tribal government as a political subdivision of a State), see section 7871.

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CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES

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Subchapter A—Additions to the Tax and Additional Amounts

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SEC. 6651. FAILURE TO FILE TAX RETURN OR TO PAY TAX.

(a) ADDITION TO THE TAX.—In case of failure—

(1) to file any return required under authority of subchapter A of chapter 61 (other than part III thereof), **section 4022 (relating to Superfund excise tax),** subchapter A of chapter 51 (relating to distilled spirits, wines, and beer), or of subchapter A of chapter 52 (relating to tobacco, cigars, cigarettes, and cigarette papers and tubes), or of subchapter A of chapter 53 (relating to machine guns and certain other firearms), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return 5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate;

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SEC. 6656. FAILURE TO MAKE DEPOSIT OF TAXES OR OVERSTATEMENT OF DEPOSITS.

(a) UNDERPAYMENT OF DEPOSITS.—In case of failure by any person required by this title or by regulation of the Secretary under this

title to deposit on the date prescribed therefor any amount of tax imposed by this title in such government depositary as is authorized under section 6302(c) to receive such deposit, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be imposed upon such person a penalty of 5 percent of the amount of the underpayment. For purposes of this subsection, the term "underpayment" means the excess of the amount of the tax required to be so deposited over the amount, if any, thereof deposited on or before the date prescribed therefor.

* * * * * * *

(c) SPECIAL RULE FOR SUPERFUND EXCISE TAX.—For purposes of subsection (a), in the case of the tax imposed by section 4001, the tax required to be deposited shall be equal to the lesser of—

(1) 90 percent of the tax imposed by section 4001 during the taxable period on taxable transactions described in paragraph (1) of section 4003(a), or

(2) the amount of such tax imposed during the preceding taxable period (determined on an annual basis).

Paragraph (2) shall not apply if not tax was imposed during the preceding taxable period.

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Subchapter B—Assessable Penalties

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Sec. ~~6708~~. 6709. Penalties with respect to mortgage credit certificates.
Sec. 6710. Failure to provide information with respect to management tax on hazardous waste.

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SEC. 6708. 6709. PENALTIES WITH RESPECT TO MORTGAGE CREDIT CERTIFICATES.

(a) NEGLIGENCE.—If—

(1) any person makes a material misstatement in any verified written statement made under penalties of perjury with respect to the issuance of a mortgage credit certificate, and

(2) such misstatement is due to the negligence of such person,

such person shall pay a penalty of $1,000 for each mortgage credit certificate with respect to which such a misstatement was made.

(b) FRAUD.—If a misstatement described in subsection (a)(1) is due to fraud on the part of the person making such misstatement, in addition to any criminal penalty, such person shall pay a penalty of $10,000 for each mortgage credit certificate with respect to which such a misstatement is made.

(c) REPORTS.—Any person required by section 25(g) to file a report with the Secretary who fails to file the report with respect to any mortgage credit certificate at the time and in the manner required by the Secretary shall pay a penalty of $200 for such failure unless it is shown that such failure is due to reasonable cause and not to willful neglect. In the case of any report required under the second sentence of section 25(g), the aggregate amount of the penalty imposed by the preceding sentence shall not exceed $2,000.

(d) MORTGAGE CREDIT CERTIFICATE.—The term "mortgage credit certificate" has the meaning given to such term by section 25(c).

SEC. 6710. FAILURE TO PROVIDE INFORMATION WITH RESPECT TO MANAGEMENT TAX ON HAZARDOUS WASTE.

(a) IN GENERAL.—Any person who fails to meet any requirement imposed by section 6039E shall pay a penalty of $100 for each day during which such failure continues, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection with respect to any failure shall not exceed $50,000.

(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law.

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CHAPTER 80—GENERAL RULES

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SEC. 7871. INDIAN TRIBAL GOVERNMENTS TREATED AS STATES FOR CERTAIN PURPOSES.

(a) GENERAL RULE.—An Indian tribal government shall be treated as a State—

(1) for purposes of determining whether and in what amount any contribution or transfer to or for the use of such governments (or a political subdivision thereof) is deductible under—

(A) section 170 (relating to income tax deduction for charitable, etc., contributions and gifts),

(B) sections 2055 and 2106(a)(2) (relating to estate tax deduction for transfers of public, charitable, and religious uses), or

(C) section 2522 (relating to gift tax deduction for charitable and similar gifts);

(2) Subject to subsection (b), for purposes of any exemption from, credit or refund of, or payment with respect to, an excise tax imposed by—

(A) chapter 30 (relating to Superfund excise tax),

~~(A)~~ **(B)** chapter 31 (relating to tax on special fuels),

~~(B)~~ **(C)** chapter 32 (relating to manufacturers excise taxes),

~~(C)~~ **(D)** subchapter B of chapter 33 (relating to communications excise tax), or

~~(D)~~ **(E)** subchapter D of chapter 36 (relating to tax on use of certain highway vehicles),

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Subtitle I—Trust Fund Code

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CHAPTER 98—TRUST FUND CODE

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Subchapter A—Establishing of Trust Funds

Sec. 9501. Black Lung Disability Trust Fund.

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Sec. 9505. Hazardous Substance Superfund.
Sec. 9506. Leaking Underground Storage Tank Trust Fund.
Sec. 9507. Oil Spill Liability Trust Fund.

* * * * * * *

SEC. 9502. AIRPORT AND AIRWAY TRUST FUND.

(a) CREATION OF TRUST FUND.— * * *

(b) TRANSFER TO AIRPORT AND AIRWAY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There is hereby appropriated to the Airport and Airway Trust Fund—

(1) amounts equivalent to the taxes received in the Treasury after August 31, 1982, and before January 1, 1988, under subsections (c) and ~~(d)~~**(e)** of section 4041 (taxes on aviation fuel) and under sections 4261 and 4271 (taxes on transportation by air);

(2) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, January 1, 1988, under section ~~4081,~~ **4081 (a)**, with respect to gasoline used in aircraft; and

(3) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, Janaury 1, 1988 under section 4071 with respect to tires of the types used on aircraft.

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SEC. 9503. HIGHWAY TRUST FUND.

(a) CREATION OF TRUST FUND—* * *

(b) TRANSFER TO HIGHWAY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(1) IN GENERAL.—* * *

* * * * * * *

(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041(d) and 4081(b) shall not be taken into account.

(c) EXPENDITURES FROM HIGHWAY TRUST FUND.—* * *

(1) FEDERAL AID HIGHWAY PROGRAM.—

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(4) TRANSFERS FROM THE TRUST FUND FOR MOTORBOAT FUEL TAXES.—

(A) TRANSFER TO BOAT SAFETY ACCOUNT.—

(i) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the Boat Safety Account in the Aquatic Resources Trust Fund

amounts (as determined by him) equivalent to the motorboat fuel taxes received on or after October 1, 1980, and before October 1, 1988.

(ii) LIMITATIONS—

(I) LIMIT ON TRANSFERS DURING ANY FISCAL YEAR.—The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed $45,000,000.

(II) LIMIT ON AMOUNT IN FUND.—No amount shall be transferred under this subparagraph if the Secretary determines that such transfer would result in increasing the amount in the Boat Safety Account to a sum in excess of $45,000,000.

(B) $1,000,000 PER YEAR OF EXCESS TRANSFERRED TO LAND AND WATER CONSERVATION FUND.—

(i) IN GENERAL.—Any amount received in the Highway Trust Fund—

(I) which is attributable to motorboat fuel taxes, and

(II) which is not transferred from Highway Trust Fund under subparagraph (A),

shall be transferred (subject to the limitation of clause (ii)) by the Secretary from the Highway Trust Fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965.

(ii) LIMITATION.—The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed $1,000,000.

(C) EXCESS FUNDS TRANSFERRED TO SPORT FISH RESTORATION ACCOUNT.—Any amount received in the Highway Trust Fund—

(i) which is attributable to motorboat fuel taxes, and

(ii) which is not transferred from the Highway Trust Fund under subparagraph (A) or (B),

shall be transferred by the Secretary from the Highway Trust Fund into the Sport Fish Restoration Account in the Aquatic Resources Trust Fund.

(D) MOTORBOAT FUEL TAXES.—For purposes of this paragraph, the term "motorboat fuel taxes" means the taxes under section 4041(a) with respect to special motor fuels used as fuel in motorboats and under section ~~4081~~ **4081(a)** with respect to gasoline used as fuel in motorboats.

* * * * * * *

SEC. 9505. HAZARDOUS SUBSTANCE SUPERFUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Hazardous Substance Superfund" (hereinafter in this section referred to as the "Superfund"), consisting of such amounts as may be—

(1) appropriated to the Superfund as provided in this section,

(2) appropriated to the Superfund pursuant to section 418(b) of the Superfund Revenue Act of 1985, or

(3) credited to the Superfund as provided in section 9602(b).

(b) TRANSFERS TO SUPERFUND.—There are hereby appropriated to the Superfund amounts equivalent to—

(1) the taxes received in the Treasury under section 4611, 4661, 4671, 4674, or 4681 (relating to environmental taxes),

(2) amounts recovered on behalf of the Superfund under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this section referred to as "CERCLA"),

(3) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,

(4) penalties assessed under title I of CERCLA, and

(5) punitive damages under section 107(c)(3) of CERCLA.

[Effective January 1, 1986, the following is added to the end of subsection (b):]

In the case of the tax imposed by section 4611, paragraph (1) shall apply only to so much of such tax as is attributable to the Superfund financing rate under section 4611(c).

(c) EXPENDITURES FROM SUPERFUND.—

(1) IN GENERAL.—Amounts in the Superfund shall be available, as provided in appropriation Acts, only for purposes of making expenditures—

(A) to carry out the purposes of paragraphs (1), (2), (4), and (5) of section 111(a) of CERCLA as in effect on the date of the enactment of the Superfund Amendments of 1985, or

(B) hereafter authorized by a law which authorizes the expenditure out of the Superfund for a general purpose covered by paragraphs (1), (2), (4), and (5) of such section 111(a) (as so in effect).

(2) EXCEPTION FOR CERTAIN TRANSFERS, ETC. OF HAZARDOUS SUBSTANCES.—Amounts in the Superfund shall not be available for any transfer or disposal which could not be made but for section 121(i) of CERCLA as in effect on the date of the enactment of the Superfund Amendments of 1985.

(d) AUTHORITY TO BORROW.—

(1) IN GENERAL.—There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund.

(2) REPAYMENT OF ADVANCES.—

(A) IN GENERAL.—Advances made pursuant to this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund.

(B) FINAL REPAYMENT.—No advance shall be made to the Superfund after September 30, 1990, and all advances to such Fund shall be repaid on or before such date.

(C) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the

calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

(e) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

(1) GENERAL RULE.—Any claim filed against the Superfund may be paid only out of the Superfund.

(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in CERCLA or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund.

(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Superfund has insufficient funds to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined.

SEC. 9506. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Leaking Underground Storage Tank Trust Fund", consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Leaking Underground Storage Tank Trust Fund amounts equivalent to—

(1) taxes received in the Treasury under sections 4041(d) and 4081(b) (relating to additional taxes on motor fuels and gasoline), and

(2) amounts collected under section 9003(h)(3) of the Solid Waste Disposal Act.

(c) EXPENDITURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), amounts in the Leaking Underground Storage Tank Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out section 9003(h) of the Solid Waste Disposal Act as in effect on the date of the enactment of the Superfund Amendments of 1985.

(2) TRANSFERS FROM TRUST FUND FOR CERTAIN REPAYMENTS AND CREDITS.—

(A) IN GENERAL.—The Secretary shall pay from time to time from the Leaking Underground Storage Tank Trust Fund into the general fund of the Treasury amounts equivalent to—

(i) amounts paid under—

(I) section 6420 (relating to amounts paid in respect of gasoline used on farms),

(II) section 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems), and

(III) section 6427 (relating to fuels not used for taxable purposes), and

(ii) credits allowed under section 34, with respect to the taxes imposed by sections 4041(d) and 4081(b).

(B) TRANSFERS BASED ON ESTIMATES.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(d) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

(1) GENERAL RULE.—Any claim filed against the Leaking Underground Storage Tank Trust Fund may be paid only out of such Trust Fund.

(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Leaking Underground Storage Tank Trust Fund.

(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Leaking Underground Storage Tank Trust Fund has insufficient funds to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined.

SEC. 9507. OIL SPILL LIABILITY TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Oil Spill Liability Trust Fund", consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

9602(b).

(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Oil Spill Liability Trust Fund amounts equivalent to—

(1) taxes received in the Treasury under section 4611 (relating to environmental tax on petroleum) to the extent attributable to the Oil Spill Liability Trust Fund financing rate under section 4611(c),

(2) amounts recovered, collected, or received under title I of the Comprehensive Oil Pollution Liability and Compensation Act,

(3) amounts remaining on the date of the enactment of this section in the Deep Water Port Liability Fud established by section 18(f) of the Deep Water Port Act of 1974, and

(4) amounts remaining on the date of the enactment of this section in the Offshore Oil Pollution Compensation Fund es-

tablished under section 302 of the Outer Continental Shelf Lands Act Amendments on 1978.

(c) EXPENDITURES.—

(1) IN GENERAL.—Amounts in the Oil Spill Liability Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures for—

(A) the payment of removal costs described in section 101(24)(A) of the Comprehensive Oil Pollution Liability and Compensation Act, as in effect on the date of the enactment of this section,

(B) the payment of contributions to the International Fund under section 404 of such Act,

(C) the payment of removal costs for which the Deep Water Port Liability Fund is liable under the Deep Water Port Act of 1974,

(D) the payment of removal costs for which the Offshore Oil Pollution Compensation Fund is liable under title III of the Outer Continental Shelf Lands Act Amendments of 1978, and

(E) the payment of all expenses of administration inclurred by the Federal Government under the Comprehensive Oil Pollution Liability and Compensation Act.

Under regulations prescribed by the Secretary, amounts shall be available under subparagraph (B) with respect to any contribution to the International Fund only in proportion to the portion of the International Fund used for the payment of response costs.

(2) LIMITATIONS ON EXPENDITURES.—

(A) 200,000,000 PER INCIDENT.—The maximum amount which may be paid from the Oil Spill Liability Trust Fund with respect to any single incident shall not exceed $200,000,000.

(B) $30,000,000 MINIMUM BALANCE.—Except in the case of payments described in paragraph (1)(A), a payment may be made from such Trust Fund only if the amount in such Trust Fund after such payment will not be less than $30,000,000.

(d) AUTHORITY TO BORROW.—

(1) IN GENERAL.—There are authorized to be appropriated to the Oil Spill Liability Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.

(2) LIMITATION ON AMOUNT OUTSTANDING.—The maximum aggregate amount of repayable advances to the Oil Spill Liability Trust Fund which is outstanding at any one time shall not exceed $300,000,000.

(3) REPAYMENT OF ADVANCES.—Rules similar to the rules of paragraph (2) of section 9505(d) shall apply for purposes of this subsection.

(e) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

(1) GENERAL RULE.—Any claim filed against the Oil Spill Liability Trust fund may be paid only out of such Trust Fund.

(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Oil Pollution Liability and Compensation Act or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Oil Spill Liability Trust Fund.

(f) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Oil Spill Liability Trust Fund has insufficient funds (or is unable by reason of subsection (c)(2)) to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under such subsections, be paid in full in the order in which they were finally determined.

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VI. ADDITIONAL VIEWS ON SUPERFUND OF HON. JAMES R. JONES AND HON. J.J. PICKLE

The first 5-year authorization of the Superfund Program is about to expire. We now have a 5-year compendium on what's gone wrong, and what little has been done right. The record is quite clear. After 5 years of effort, the number of sites on the national priority list has grown, not diminished. More people are drinking dirty water, not cleaner. Our citizens are still exposed to harmful contaminants, and waste is still being emitted into our environment.

Soon the House will be considering legislation that provides additional funding over the next five years to cleanup the Nation's worst, neglected toxic waste sites. No one seems to question the need for or general purpose of Superfund reauthorization. We all know we need to pay more. But we don't know who should pay and at what rates. In our opinion, the bill reported by the Committee on Ways and Means strikes the appropriate balance among many competing goals.

BROADER, MORE RELIABLE SUPERFUND TAX BASE

The question of who should be paying for the Superfund cleanup has troubled us for some time. Recently a list of responsible parties that have been associated with known waste sites was published. It was most enlighting. The list reads like a Who's Who of the Fortune 500 and 1000. There were many oil and chemical companies identified on the list, but there were an astonishing number of companies that have never been associated in the media with hazardous waste problems. Today, there is virtually no correlation between those who pay the current feedstock and petroleum taxes and those who contributed to the problem. Not only is the theory behind the current taxes flawed but its application is even worse. According to EPA, of the 30 most frequently found substances at 881 hazardous waste sites, only 11 are subject to tax. Moreover, petroleum refiners generate less than 5 percent of the Nation's wastes, yet they currently provide about 16 percent of the Superfund revenues.

As a result, many of those who are responsible for and who benefited from past mismanagement of hazardous wastes are escaping responsibility altogether. Hazardous waste mismanagement is a societal problem. Hazardous waste management is a benefit to all of our society.

That is the reason when the Committee on Energy and Commerce reported H.R. 2817, it recommended that our Committee adopt a broad-base corporate tax designed to raise $4.5 billion over the 5-year funding period. The Committee on Public Works and Transportation also recommended adoption of a broad-base corpo-

rate tax. This is precisely what the Ways and Means Committee legislation accomplishes. The Superfund Excise Tax (SET) would raise $4.5 billion through the imposition of an excise tax on manufacturers with annual gross sales over $10 million.

The SET would apply to sales or leases of tangible personal property by the person who manufactured or produced the property at the very low rate of 0.08 percent of the sales price or customs value. That is, $8 of tax per $10,000 of taxable amount. The tax would apply to imports of personal property, and property destined for export would not be subject to tax. The SET exempts small manufacturers, nor would it apply to retailers, wholesalers, or distributors. It is simply an excise tax imposed at the manufacturing level of production. Some have expressed concern this tax is like the value-added taxes that are imposed in Europe. This is emphatically wrong. It is an excise tax, and nothing more.

TRADE-NEUTRAL APPROACH

Superfund is to be reauthorized at a greatly expanded funding level, somewhere between $7.5 billion (as recommended by the Senate) and $10 billion, as proposed by the House. Only the general manufacturers' SET proposed by the Committee on Ways and Means can finance an increase of such a magnitude in Superfund without adding to the current international trade imbalance. All of the other taxes considered by our Committee—including increases in the existing feedstock and petroleum taxes, waste-end taxes, surcharges and net receipts taxes—would mean higher costs for U.S. companies, but not for their foreign competitors. That approach is certain to raise imports, lower exports and worsen the trade deficit. Adoption of the Committee recommendation gives our House colleagues an opportunity to end speech-making on the trade issue, and to act toward this end.

The SET adopted by our Committee would not harm the ability of U.S. companies to compete with foreign companies either at home or abroad, because the tax is imposed on imports and rebated on exports. It is trade-neutral as to its application. This is a goal a majority of our House colleagues clearly support and was a major factor in the decision to adopt the SET in the Committee on Ways and Means.

INCREASE IN THE PETROLEUM TAX IS A GRAVE MISTAKE

Although we supported the recommendations of the Committee on Ways and Means, we did so reluctantly. The decision to increase the current petroleum tax of .79-cent per barrel to 3.85-cents per barrel on crude oil received at a U.S. refinery is most unfortunate. Such action to increase the petroleum tax will greatly impact our refining industry. It would be a trade policy disaster. Our Nation's refiners face a grave outlook. In 1981, when the Superfund petroleum tax was first imposed, there were 324 refineries in the United States. As of 1985, 223 refineries were still in existence. This is a drop of 101 refineries. Over 35-percent of our refining capacity has shut down. Some have estimated that we have lost over 11,000 refining jobs since 1981. Refineries that remain are at 25 percent below capacity.

The outlook for increased foreign competition is ominous. In 1985, a flood of refining capacity will be brought on board in the Middle East, including three Saudi Arabian refineries capable of handling 800,000 bbl per day. We may be witnessing a 100-percent increase or more in Persian Gulf petroleum products exports.

What does all this foreign competition mean? In six of the last eight quarters beginning in 1983, a barrel of refined products has sold in the U.S. market for less than the price of a barrel of crude oil used to make it. There is no hope for anything but negative profit margins for our refiners in the near and long-term.

Foreign competition has other price advantages. A major reason domestically refined products cannot fairly compete with imported products is the substantial environmental costs domestic products must bear—estimated to be over 2.5 cents per gallon of gasoline produced every year since 1980. Additionally, foreign refiners, who have less restrictive domestic lead usage limits, segregate high octane components to make low lead gasoline for the U.S. import market—giving them an almost 5 cents per gallon incremental production cost advantage over our domestic refiners. *That means a total 7.5-cent per gallon cost advantage over our domestic refiners.*

CAUTION ON ADOPTION OF A WASTE-END TAX AS A MAJOR SOURCE OF FUNDING

The Committee on Ways and Means recommended as part of its Superfund revenue package a waste management tax. The tax would be expected to raise $1.5 billion over the funding period. Let us emphasize, it is EXPECTED to raise that amount. We have no experience with the implementation of a waste-end tax at the federal level. A study by the General Accounting Office of three states that have a waste management tax found that each state experienced significant revenue shortfalls. One state, in fact, replaced its waste management tax in 1983 after discovering that administrative costs exceeded revenues. The GAO study found revenue shortfalls that ranged from 39 to 93-percent. There is a serious issue as to what revenue shortfall will be experienced at the federal level.

Others have questioned the fact that a waste management tax will encourage midnight dumping, waste blending, questionable recycling and treatment operations, and under-reporting of waste volumes. Many environmental experts, in fact, fear that the imposition of a waste management tax will completely undermine the 1984 RCRA policing structure.

Last, we feel compelled to point out the concern expressed to our Committee that a waste management tax should not be enacted until the 1984 RCRA amendments are implemented fully, a point which is at least 4-years away. The reliance of a waste management tax on the RCRA structure is quite disconcerting when one realizes that the 1984 RCRA amendments will not be fully in place for another 4-years.

We urge the conferees to give serious consideration to the problems we have addressed on the waste management tax.

SET BEST APPROACH

The most important aspect of the recommendation of the Committee on Ways and Means is the fact that it bears a fair relationship to the purpose and benefits of Superfund. It is a more equitable, rational approach. Broadening Superfund's tax base is both necessary and appropriate. That is the reason the Committees on Energy and Commerce, Public Works, and Ways and Means all recommended adoption of a broad-base corporate tax. In view of the diverse sources of hazardous wastes and the general societal benefits all of us receive from their clean-up, SET is the best feasible solution to our funding needs.

JAMES R. JONES.
J.J. PICKLE.

VII. ADDITIONAL VIEWS OF HON. BILL FRENZEL

Everybody believes that the Superfund extension bill ought to be passed this year. So do I.

The Ways and Means Committee jurisdiction only includes the financing plan necessary to fund the program designed by the other committees. Ways and Means had to find about $10 billion over 5 years to finance the bills sent us by the committees of primary jurisdiction.

Every combination of taxes considered by the Committee had strong opponents armed with strong arguments. There is no painless way to finance Superfund.

The current Superfund tax, a combination of an oil tax and a feedstock tax, was created on the rationale that the taxpayers, mostly oil and petro-chemical companies, had some relationship to the materials which have caused the problem. It was not a bad way to finance the first phase of Superfund cleanup.

The second phase, represented by this bill, requires more money. The higher levels of expense caused the Committee to go beyond tax payers who could be directly linked to the problem. Thus, every proposal went beyond the old oil and feedstock taxes, and the proposed, but still linked, waste-end tax. The principal suspects included a Value Added Tax (VAT), called in this case a broad-based manufacturing excise tax, general revenue financing, other "broad-based taxes," surcharges, and borrowing.

By the narrowest of margins, 18–17, the Committee chose the VAT, or broad-based excise tax, to carry about 45% of the 5 year, $10 billion tax load.

It rejected a substitute by Congressman Gregg which I believe was the most thoughtful and creative alternative, and it rejected other proposals with higher oil, feedstock and waste-end taxes and higher borrowing and/or general revenue. In all cases the divisions were close.

My first choice is the Gregg plan. My second would be a plan which is strong on the linked taxes and on borrowing. Obviously, borrowing and/or general revenue are important to those who believe, like EPA, that the Superfund cannot or will not spend the full $10 billion. With the Senate positioned at $7.5 billion, and a dissatisfied White House, it seems likely to me that the final tax burden will be considerably less than $10 billion. I see no need to punish linked industries unnecessarily because Superfund is aimed at orphan dump sites. Current law can handle present dumpers. Superfund covers sites where responsibility, other than the broad health and safety responsibilities of the government, cannot be determined.

However, of all the tax alternatives, I find the VAT base recommended by the Committee the worst.

It may not provide enough revenue. It may cost more than proponents say to operate the system. It repudiates the old linkage theory, but its base is not broad enough to cover all taxpayers. If the Superfund is in the public interest, and I believe it is, it probably ought to be supported by the broadest based tax of all, an individual surtax.

For me, the greatest drawback of the VAT is that it squanders the most likely consumption tax, one that might be used in the future as a partial tradeoff for the corporate income tax, which could help to make America competitive again in international markets. Once used for Superfund, it is lost, perhaps forever.

The VAT in the Committee bill is very similar to the tax in the Senate bill. That means there is no maneuvering room in Conference. Make no mistake. If we approve the Committee's recommendation, we will have a VAT.

I believe neither Congress nor the American people want a VAT now. Neither Congress nor the American people fully understand it yet. The public debate and discussion required in this country for major tax policy changes has hardly begun.

Because I feel so strongly that a VAT is premature, I have agreed to co-sponsor, with Congressman Downey of New York, an alternative financing proposal. It's not my first, nor second, choice, but I do favor it miles ahead of the Committee's Value Added Tax.

I respectfully suggest that a rule be granted for the Downey tax proposal, and that it be adopted as the House's financing plan for the needed next phase of Superfund.

BILL FRENZEL.

VIII. ADDITIONAL VIEWS OF HON. JUDD GREGG

The Committee on Ways and Means acted responsibly by providing financing for the Superfund at a level slightly in excess of $10 billion, but I believe that the inclusion of the Superfund Excise Tax (SET) is a serious error. This action undermines the key principles of sound tax policy and adherence to the traditional "polluter pays" concept.

My opposition to the SET is based specifically on its inability to distinguish between polluters and non-polluters, and its structure as a modified value-added tax (VAT). A VAT is inherently regressive, difficult to administer and enforce, and fundamentally inappropriate for a limited and specifically targeted program, such as Superfund. Because it would be a hidden tax with the capability to raise tremendous quantities of revenue, it could be subject to easy increases and abuses.

Although the SET appears to offer the advantage of trade neutrality, I believe there are better broad-based funding mechanisms which could satisfy this criterion, while also providing the requisite environmental nexus. I urge the House to pursue those alternatives and reject the SET.

The simplest and most direct approach would be to provide this portion of the money from general revenues. The difficulty with this, of course, is that an appropriation of this magnitude would add significantly to the budget deficit. General revenue funding is also considered to be unreliable because there may be an inclination to appropriate less than the full authorized amounts when the money is not being drawn from a dedicated trust fund. Financing from general revenues should, therefore, be held to a level no greater than that which reflects the contribution to waste sites by public and general welfare entities.

The waste sites that are eligible for Superfund action are those for which no responsible party can be identified. These problems have not, in many cases, been caused by contemporary users of chemical feedstocks or disposers of hazardous waste; and there is good evidence that a significant portion of the waste is derived from a broad spectrum of industry. Thus, although I am opposed to the SET, I am supportive of the general concept of including broad-based funding as the only equitable alternative to compensate for the broader societal involvement in superfund sites; but the tax should be structured to reflect the fact that all segments of society are not equally culpable.

I also believe that the use of waste-end tax as a major revenue source is unwise; but a properly designed waste-end tax can be a very valuable short-term instrument for the promotion of desirable waste management practices. It also serves to broaden the tax base, with a concurrent improvement in the environmental nexus of the total tax package.

However, if the waste disposal tax is successful in encouraging waste treatment and recycling, the tax base will undergo significant erosion over time, and a more stable, waste-connected tax will be needed. This can be accomplished in a straightforward manner, for the longer term, by imposing a broadly based tax, with rates set on the basis of historical waste generation, on an industry-by-industry basis.

JUDD GREGG.

IX. DISSENTING VIEWS OF HON. THOMAS J. DOWNEY, HON. DAN ROSTENKOWSKI, HON. ROBERT T. MATSUI, HON. BRIAN J. DONNELLY, HON. CHARLES B. RANGEL, AND HON. DONALD J. PEASE

In our narrow approval of the Superfund Manufacturers Excise Tax, the Ways and Means Committee has actually pushed the Congress dangerously close to the edge of a hidden trap for American taxpayers—the Value Added Tax. Not only does this tax undermine the principles of this country's tax policy, it also violates the rationale of the Superfund hazardous waste program by transferring the costs of the program to taxpayers who have played little or no role in the creation of the toxic waste crisis facing us today.

The country has made a decision to raise the revenue needed to promote the general welfare through a progressive tax system. Different tax rates reflect an individual's ability to pay taxes because this is the fairest and most equitable means of raising the money we need to run our country.

The supporters of this new Superfund tax have called it a Manufacturers Excise Tax. However, this regressive tax should be examined for what it really is—a value added tax. The tax approved by our Committee is imposed on manufactured goods. Each manufacturer is taxed on an amount of value added to goods they produce. An excise tax is normally a tax on the full sales price of the goods produced and is traditionally viewed as a tax on narrow categories. The distinction is important because if Americans are going to be railroaded into paying a regressive tax, they ought to know they're not riding a phantom train surreptitiously dubbed an "excise tax."

The Superfund VAT contained in H.R. 2817 will be levied on the sale of manufactured goods at each stage of the production process. The cost of the tax will be transferred to the buyer of those goods. If the buyer happens to be a manufacturer, a credit will be provided against the amount of tax that has previously been paid by other manufacturers. For example, in the manufacture of an automobile, a credit would be given to the auto manufacturer for the taxes that were paid on the parts of the car—the tires, the glass for the windows or the steel and aluminum—that the auto manufacturer bought from another manufacturer. Each tax is therefore factored into the selling price of a product. But the cost of the tax is hidden in its final sales price which is paid by the consumer.

An invisible tax reflected in higher prices for consumers ignores the principles of tax fairness and equity. Unlike the tax code, consumer prices do not reflect a taxpayer's economic situation and their ability to pay a certain tax rate. Obviously, lower- and middle-income people will have a tougher time swallowing higher prices than the wealthy. A VAT is a regressive tax and is patently unfair to the average American.

Proponents of this new Superfund tax claim that the tax is dedicated only to Superfund and that enough safeguards exist in the legislative and political processes to ensure that this tax is not expanded to raise general revenue. However, the history of Federal taxes clearly shows that once a tax is enacted, it inevitably expands. The Investment Tax Credit is one example of a tax allowance with a narrowly defined goal that has grown to a proportion that was never intended when it was designed.

Serious practical concerns have been voiced over the Superfund VAT. The Treasury Department and the Environmental Protection Agency have written about the VAT contained in S. 51, which closely resembles the VAT contained in H.R. 2817, and noted that it:

> is an entirely new method of taxation that would present numerous administrative difficulties for both the Internal Revenue Service and taxpayers. For example, the manufacturer's VAT would create valuation problems for tax administrators and taxpayers. This is because manufacturers do not sell exclusively to wholesalers. Some manufacturers engage in wholesale and retail activities, perhaps even selling directly to consumers. In such a case, adjustments must be made to reduce the manufacturers price to reflect the fact that it is engaged in wholesale and/or retail activity. This involves the need to determine an "arms-length price" for intercompany pricing purposes. Canada, which has a manufacturers VAT, has found it necessary to rely on an extensive set of rules and regulations involving discounts, notional values, and phantom sales to "paper" branches to solve this problem. The Internal Revenue Service has estimated that the cost of implementing the manufacturers VAT would be approximately $5.1 million per year.

If the VAT were adopted into law, the EPA would be corralled in the starting blocks as the Teasury Department struggled to deal with a new and complicated Superfund tax at a time when the Agency should be accelerating its efforts to cleanup hazardous waste dumps. Who bears the cost of this delay? The people living near toxic waste sites. They will have to endure contaminated groundwater, noxious fumes, and general anxiety about their prolonged exposure to dangerous chemicals for that much longer. And under the VAT, it is important to remember that these same people affected by the toxic waste problem will be paying for the cleanup effort through higher prices. It's bad enough that they must live near toxic waste—they should not be forced to pay for that risk.

Congress designed the Superfund Trust Fund in 1980 to clean up thousands of abandoned and out-of-control hazardous waste dumps through revenue raised from the sale of crude oil and 42 chemical feedstocks. In theory, EPA is supposed to use the CERCLA trust fund to clean up sites and then recover the costs of the cleanup from those parties responsible for the problem. At the time the law was written, we believed that these chemicals and the companies

producing the feedstocks were most directly responsible for the toxic waste problem.

Today, the feedstock tax has been widely viewed as meeting the test of tax equity because of the relationship between the companies on which the tax burden falls and the predominance of the kinds of waste found at hazardous waste sites. EPA reports that 93 percent of all hazardous waste generated in the United States is generated by the chemical, petroleum and metal-related industries, which are the companies that pay the feedstock taxes. In its final report dated December 1984 on *Feasibility and Desirability of Alternative Tax Systems for Superfund*, EPA concluded that: "Because (the chemical, petroleum and metal-processing) industries both produce and use the feedstocks taxed by the current CERCLA tax, it appears that the tax burden is primarily borne by these industries and their customers. This is consistent with the view that equity requires a rough correlation between the industries paying the CERCLA tax and the industries responsible for Fund spending."

Not only does a connection exist between taxpayers and the problem, but the existing feedstock taxes have proven to be highly reliable and easily administered. If EPA would only spend the money raised by these taxes, we would be facing less pressure to expand the fund to the level which the public now demands.

The Superfund VAT is unfair and inappropriate. Adopting a complicated regressive tax at a time when we are struggling to reform our tax code to make it simpler and fairer is hypocritical. The burden of the VAT will fall on 38,000 companies required to pay the tax and millions of American consumers who have little or no connection to the hazardous waste problem. Superfund's tax base should be expanded to include those who generate waste and this can be done through the waste-end tax. The problem of hazardous waste is serious. But let's not throw away the basic pinnings of our tax system because we are unable to take the time to make tough decisions on how to pay for the problem of hazardous waste. The polluter must pay for the legacy of decades of negligent waste disposal and the program must be supported by stable, reliable, and carefully targeted tax revenues.

THOMAS J. DOWNEY.
DAN ROSTENKOWSKI.
ROBERT T. MATSUI.
BRIAN DONNELLY.
CHARLES B. RANGEL.
DONALD J. PEASE.

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